

Standing Committee on
Parliamentary Privilege and Ethics



LEGISLATIVE
ASSEMBLY

Review of the Code of Conduct for Members



Report 4/57 – December 2022



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Ethics

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The motto of the coat of arms for the state of New South Wales is "Orta recens quam pura nites". It is written in Latin and means "newly risen, how brightly you shine".

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Membership

Chair	Mr Peter Sidgreaves MP
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Chair's foreword

I am pleased to present this report of the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics on its most recent review of the Code of Conduct for Members.

In March 2020, both the Legislative Assembly and the Legislative Council adopted a new Code of Conduct, based on a series of committee inquiries and subsequent negotiation between the Privileges Committees of both Houses. Overall, we feel that the amendments adopted in 2020 have been working well and provide a satisfactory ethical framework to assist Members in the discharge of their parliamentary duties and obligations to the House, their electorates and the people of NSW.

At the start of every Parliament, each House passes a resolution adopting the Code. With the end of the 57th Parliament, and the general election scheduled for 25 March 2023, this report provides some findings and commentary on various aspects of the Code which I hope is of assistance to the House and this Committee in the new 58th Parliament.

I would like to thank the Deputy Chair Mr Adam Crouch MP, as well as all Members of the Committee Mr Kevin Conolly MP, Mr Alex Greenwich MP, Ms Melanie Gibbons MP, Mr Ron Hoenig MP, and The Hon. Wendy Tuckerman MP for their collegiate, constructive and collaborative approach to this review. I would also like to thank the secretariat for their support and expertise.

Peter Sidgreaves MP
Chair

Summary

Introduction

The Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics is required to review the Members' Code of Conduct every four years under section 72C(5) of the *Independent Commission Against Corruption Act 1988* and the resolution of the Legislative Assembly establishing the Committee. This report outlines the findings from the Committee's review.

In March 2020 both the Legislative Assembly and the Legislative Council adopted a new Code of Conduct, based on a series of committee inquiries and subsequent negotiation between the Privileges Committees of both Houses. This was the first major re-write of the Code since 2007. On the whole, the Committee considers that the new Code is appropriate and does not require significant amendment.

This report is made at the end of the 57th Parliament, with the general election scheduled for 25 March 2023. At the start of every Parliament, each House passes a resolution adopting the Code. Rather than making definitive recommendations for changes to the Code, this report summarises some issues and provides some commentary for the consideration of the House and this Committee in the new 58th Parliament.¹

Issues

Since the Committee's previous review of the Code and the adoption of the new Code of Conduct, there are three major areas for reform to the Code that have been called for in various reviews and investigations:

- 1 the scope and format of the Pecuniary Interests Register;
- 2 the regulation of conflicts of interest;
- 3 Member conduct concerning bullying, sexual harassment and sexual misconduct.

This report also outlines other amendments suggested by the Independent Commission Against Corruption (ICAC) and others.

Pecuniary Interests Register

The Committee considers that the current requirement in clause 6 of the Code that 'Members shall fulfil conscientiously the requirements of the House in respect of the Register of Disclosures by Members' is appropriate. It allows for the Code to remain current and accommodate any future changes to the *Constitution (Disclosure by Members) Regulation 1983*.

¹ This Committee will be re-constituted after the opening of the 58th Parliament, which is expected to be in May 2023.

The Committee has previously made a number of recommendations to amend and improve the Regulation², as has the ICAC in its *Investigation into the conduct of the local member for Drummoyne*.

The Government has signalled its intention to bring forward draft changes to the *Constitution (Disclosure by Members) Regulation 1983* and implement the ICAC's recommendations. In November 2022 the Parliament passed the *Integrity Legislation Amendment Act 2022* to provide certainty around regulation making powers to implement the ICAC's recommendations.

There is a statutory requirement for the House to designate a committee to review any changes to the *Constitution (Disclosure by Members) Regulation 1983*, and in November 2022 the House also passed a resolution designating this Committee to conduct the review. When the draft amendments to the *Constitution (Disclosure by Members) Regulation 1983* are available, the Committee will carefully review the provisions and provide input and comments.

Also as a consequence of the passing of the *Integrity Legislation Amendment Act 2022*, the *Constitution Act 1902* now requires that a searchable and publicly accessible electronic register be available within 12 months of the passing of any new regulation. There will be technical and funding issues associated with this transition, and additional resources required for the parliamentary administration to support the design and maintenance of this new electronic register. The Committee anticipates it will have further comments and recommendations in relation to this issue when it reviews draft amendments to the *Constitution (Disclosure by Members) Regulation 1983*.

Conflicts of interest register

The ICAC has recommended the creation of a separate and mandatory conflicts of interest register. The Committee agrees with the Legislative Council Privileges Committee that this is a significant change and would require consultation with Members and other stakeholders³.

As with the changes to the pecuniary interests register, there will be technical and funding issues associated with the establishment of this register, and additional resources required for the parliamentary administration for its design and maintenance, as well as a training and education program for Members. The Committee anticipates it will have further comments and recommendations in relation to this issue when it reviews draft amendments to the *Constitution (Disclosure by Members) Regulation 1983*.

Bullying, sexual harassment, sexual misconduct, harassment and inappropriate behaviour

While in March 2020 the Legislative Assembly and Legislative Council adopted a new and identical code, in March 2022 the Legislative Council amended their Code by adding a new clause to deal with bullying, harassment and sexual harassment. The Council made this change to 'put beyond doubt' that the newly established Independent Complaints Officer could

² Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics, [Review of the Pecuniary Interest Register](#), Report 2/56, November 2018.

³ Legislative Council Privileges Committee, [Review of Members' Code of Conduct](#), Report 90, November 2022, p.16. The Legislative Council Privileges Committee has recommended – 'Recommendation 4 – That the committee in the new Parliament discuss further the proposal for a mandatory conflicts of interest register with the Independent Commission Against Corruption, the Independent Complaints Officer and the Parliamentary Ethics Adviser, and then seek the views of Members on a specific proposal'.

investigate this type of conduct and to ‘make a public statement of acceptable standards’.⁴ The Legislative Assembly took a different view, and considered that this type of conduct was already covered by work health and safety and anti-discrimination legislation.

In 2021 Elizabeth Broderick & Co were commissioned to conduct an independent review into harmful behaviours in parliamentary workplaces, including bullying, sexual harassment and sexual misconduct. The Broderick review made a series of recommendations aimed at addressing the cultural factors that contribute to these behaviours, including that this Committee should make the following changes to the Code of Conduct:

- 1 Clarify the conduct of an MP that can be investigated as a potential breach of the Code of Conduct.⁵
- 2 Address bullying, sexual harassment and sexual misconduct more explicitly, including prohibiting these behaviours; stronger accountability arrangements; penalties for breaches; and noting the positive obligation on MPs to create and uphold a safe workplace culture.⁶
- 3 Insertion of provisions to protect survivors and witnesses from retribution for making a report.⁷

The Committee finds that the House and Committee in the new Parliament should consider whether an explicit provision should be inserted into the Code of Conduct dealing with bullying, sexual harassment, sexual misconduct, harassment and inappropriate behaviour.

Other potential amendments

There are a number of other amendments the House and re-constituted Committee may wish to consider in the 58th Parliament, including whether:

- there should be set of overarching ethical standards and principles, similar to the UK Standards in Public Life, as recommended by the ICAC in its submission to this review (preamble and clause 1 of the Code)
- to amend the Code of Conduct to explicitly prohibit all forms of paid advocacy, and to ensure it extends to a Member of Parliament seeking to improperly influence other public officials on behalf of any other person with whom the Member is closely connected, as recommended by the ICAC in its submission to this review (clause 2 of the Code)
- to amend the Code to include specific reference to the jurisdiction of the Independent Complaints Officer, as in the Legislative Council Members’ Code of Conduct (clause 9 of the Code).⁸

⁴ Legislative Council, Privileges Committee, [Proposal for a Compliance Officer for the NSW Parliament No. 2](#), Report 85, November 2021, Chair’s Foreword, p. vi.

⁵ EB&Co, Recommendation 2.2, [Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022](#), p. 54.

⁶ EB&Co, Recommendation 3.1, [Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022](#), p. 77.

⁷ EB&Co, Recommendation 5.5, [Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022](#), p.81.

⁸ The Legislative Council made this change in March 2022, when passing its resolution to establish the Independent complaints Officer.

Training and guidance materials

There have been a number of recommendations from the ICAC calling for more training and guidance for Members on their ethical obligations under the Code of Conduct, including in relation to disclosure obligations⁹, how to avoid, resolve and disclose conflicts of interest¹⁰, the proper and improper exercise of power and undue influence¹¹ and the improper intermingling of public resources with personal interests¹².

The Committee recognises that while there are currently resources and training opportunities for Members, more could be done to assist and educate Members in the areas identified by the ICAC and on other aspects of the Code of Conduct.

The Committee has a statutory role ‘to carry out educative work relating to ethical standards applying to Members of the Legislative Assembly’.¹³ The Committee recognises the importance of this role, and has recently added Member training and development, including new Member induction, as a standing agenda item for its meetings.

The Committee welcomes recent correspondence from the new ICAC Chief Commissioner offering to partner with the Committee to develop integrity awareness educational initiatives that could be of assistance to Members of the Legislative Assembly. For example, the Chief Commissioner noted that the ICAC would be interested in partnering with the Committee to develop educational tools such as:

- Short-form printed advisory materials about the duties and obligations of Members with reference to relevant case studies; and
- Pilot face-to-face or online training for Members addressing aspects of the Code of Conduct.¹⁴

The Committee has recently met with the new ICAC Chief Commissioner and had productive discussions about training opportunities, resulting in a workshop for departing Members that highlighted specific corruption risks. The Committee also plans for the ICAC to participate in the new Member induction program after the March 2023 election.

Finally, in relation to a submission made to the Committee by the Ombudsman of NSW¹⁵ the Committee also made a finding that the Committee in the 58th Parliament consider recommending that guidance materials that sit under the Code cover the possibility that complaints regarding breaches of the Code may also be public interest disclosures to be dealt with according to the applicable legislation.

⁹ Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.177 – see recommendation 2.

¹⁰ Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.177 – see recommendation 5.

¹¹ Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.177 – see recommendation 6.

¹² Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.177 – see recommendation 7.

¹³ Section 72E(1)(B), [Independent Commission Against Corruption Act 1988](#).

¹⁴ The Hon. John Hatzistergos AM, Chief Commissioner of the Independent Commission Against Corruption, *Letter to the Chair of the Legislative Assembly Committee on Parliamentary Privilege and Ethics*, 25 August 2022.

¹⁵ Submission 1, [Ombudsman New South Wales](#).

Findings

- Finding 1 _____ 1
- A new Code of Conduct for Members was adopted by both Houses in 2020. On the whole, the Committee considers that the new Code is appropriate and does not require significant amendment.
- Finding 2 _____ 2
- The current Code includes a clear reference to respect for the law. While not necessary, it may be helpful to add specific reference to fiduciary-like obligations and principles that inform relevant aspects of the common law such as public trust, public interest and public duty.
- Finding 3 _____ 3
- The current Code includes many references to ethical principles and values. While not necessary, it may be helpful to spell these out separately and more fully.
- Finding 4 _____ 5
- The reconstituted Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics in the 58th Parliament should consider whether to amend the Code to prohibit all forms of paid advocacy. The Committee should also consider whether the prohibition on improper influence as outlined in clauses 2(b) and (c) should be amended to ensure that it extends to a Member of Parliament seeking to improperly influence other public officials on behalf of any other person with whom the Member is closely connected.
- Finding 5 _____ 7
- Consideration should be given in the 58th Parliament as to whether to amend the Code to provide a more proscriptive list of public resources that cannot be intermingled with private resources under any circumstances, or whether more guidance, education and training is sufficient.
- Finding 6 _____ 12
- The Government has indicated that it intends to amend the *Constitution (Disclosure by Members) Regulation 1983* to implement recommendations of the Independent Commission Against Corruption (ICAC). When the draft amendments to the Regulation are available, the Committee will carefully review the provisions.
- Finding 7 _____ 15
- The Committee considers that the creation of a separate and mandatory conflict of interests register is a significant change that would require consultation with Members and other stakeholders.
- Finding 8 _____ 16
- The Committee considers that the House and the Legislative Assembly Committee on Parliamentary Privilege and Ethics in the 58th Parliament should consider whether to amend the Code to include specific reference to the jurisdiction of the Parliament's Independent Complaints Officer.

Finding 9 _____ 18

The Committee considers that the House and the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics in the 58th Parliament should determine whether an explicit provision should be inserted into the Code dealing with bullying, sexual harassment, sexual misconduct, harassment and inappropriate behaviour.

Finding 10 _____ 20

While there are currently resources and training opportunities for Members, more could be done to assist and educate Members on areas that have been identified by the ICAC including disclosure obligations, conflicts of interest and proper exercise of power; and on other aspects of the Code. The Committee should continue to work with the ICAC to develop integrity awareness educational initiatives for Members.

Finding 11 _____ 23

The Committee considers that the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics in the 58th Parliament should consider recommending that guidance materials that sit under the Code:

- note the possibility that Code complaints or reports may be public interest disclosures that must be dealt with in accordance with the *Public Interest Disclosures Act 1994*, or the *Public Interest Disclosures Act 2022* on its commencement;
- incorporate an initial assessment step where attention is specifically drawn to the requirement to assess whether the report of misconduct is also a public interest disclosure; and
- note the type of misconduct that might fall under the public interest disclosures legislation.

Chapter One – Review of the Code

- 1.1 The Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics is required to review the Members' Code of Conduct every four years under section 72C(5) of the *Independent Commission Against Corruption Act 1988*. This report reviews each clause of the Code and provides some and commentary and analysis.
- 1.2 In March 2020 both the Legislative Assembly and the Legislative Council adopted a new Code of Conduct, based on a series of Committee inquiries and subsequent negotiation between the Privileges Committees of both Houses. This was the first major re-write of the Code since 2007. On the whole, the Committee considers that the new Code is appropriate and does not require significant amendment.

Finding 1

A new Code of Conduct for Members was adopted by both Houses in 2020. On the whole, the Committee considers that the new Code is appropriate and does not require significant amendment.

Preamble

Current preamble

- 1.3 The preamble to the current Code reads as follows:
- Members of Parliament acknowledge their responsibility to maintain the public trust placed in them by performing their duties with honesty and integrity, respecting the law and the institution and conventions of Parliament, and using their influence to advance the common good of the people of New South Wales.
- 1.4 The preamble to the Code was amended in 2020 on the recommendation of this Committee to focus on and strengthen reference to the key ethical framework that underpins the Code.¹⁶

Issues

- 1.5 The ICAC's submission to this review stated that 'it would assist members of Parliament if certain principles and standards that inform relevant aspects of the common law are also specifically spelled out in the Code of Conduct'. They made the following recommendation:

Recommendation 1

That the Code of Conduct be amended to clearly spell out that members of Parliament have fiduciary-like obligations and make reference to the normative principles of public trust, public interest and public duty.

¹⁶ Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, pp. 6-7.

Committee comment

- 1.6 The preamble to the Code includes a clear reference to respect for the law in general. While not necessary, it may be helpful to spell out separate references to fiduciary-like obligations and the principles that inform relevant aspects of the common law.

Finding 2

The current Code includes a clear reference to respect for the law. While not necessary, it may be helpful to add specific reference to fiduciary-like obligations and principles that inform relevant aspects of the common law such as public trust, public interest and public duty.

Purpose of the Code – Clause 1**Current clause**

- 1.7 The purpose of the current Code, at clause 1, reads as follows:

1. Purpose of the Code

The purpose of this Code of Conduct is to assist all Members in the discharge of their parliamentary duties and obligations to the House, their electorates and the people of NSW.

The Code applies to Members in all aspects of their public life.

In complying with this Code, Members shall base their conduct on a consideration of the public interest, avoiding conflict between personal interest and their duties as a Member of Parliament. It does not apply to Members in their purely private and personal lives.

Members will not act dishonestly for their own personal gain, or that of another person.

It is recognised that some members are non-aligned and others belong to political parties. Organised political parties are a fundamental part of the democratic process. Participation in the activities of organised political parties is within the legitimate activities of Members of Parliament.

- 1.8 This clause was inserted into the Code in 2020 to provide ‘broad ethical guidance’ and set an ‘aspirational tone and act as the ethical yardstick for all that follows’. It is also designed to be ‘a simple guiding principle for Members which they can apply to any ethical dilemmas which might arise’.¹⁷ The wording was also amended to ‘put beyond doubt that a Member’s participation in the activities of organised political parties is not a breach of the Code’.¹⁸

¹⁷ Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p. 8.

¹⁸ Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p. 8.

Issues

- 1.9 The ICAC recommended that the Code be amended to provide overarching principles and values to give guidance and context for Members and others in interpreting the Code:

Recommendation 2

That the Code of Conduct be amended to provide for a set of normative ethical principles and values applicable to all members of Parliament including the seven general principles of conduct which underpin public life developed by the United Kingdom's Committee on Standards in Public Life and the 2021 descriptors to those principles (as well as the principles of public trust, public interest and public duty mentioned in recommendation 1, above).

- 1.10 The ICAC recognised that the current Code already includes references to ethical principles and standards, but felt that these were interspersed throughout the Code and were not 'sufficiently explicit, prominent nor comprehensive'.¹⁹

Committee comment

- 1.11 The Committee considers that the current Code of Conduct does include reference to many of the principles contained in the UK Standards in Public Life. For instance, the current Code includes reference to public trust, honesty, integrity and public interest. While not necessary, it may be helpful to spell out these principles separately and more fully.

Finding 3

The current Code includes many references to ethical principles and values. While not necessary, it may be helpful to spell these out separately and more fully.

Proper exercise of power – Improper influence – Clause 2**Current clause**

- 1.12 The current clause regarding improper influence reads as follows:

2. Improper Influence

- (a) No member shall act as a paid advocate in any proceeding of the House or its committees.
- (b) A Member must not knowingly and improperly promote any matter, vote on any bill or resolution or ask any question in the Parliament or its Committees in return for any remuneration, fee, payment, reward or benefit in kind, of a private nature, which any of the following persons has received, is receiving or expects to receive as a consequence:
- (i) The Member;

¹⁹ Submission 2, [Independent Commission Against Corruption](#), p. 4.

- (ii) A member of the Member's family;
 - (iii) A business associate of the Member; or
 - (iv) Any other person or entity from whom the Member expects to receive a financial benefit.
- (c) A Member must not knowingly and improperly use his or her influence as a Member to seek to affect a decision by a public official including a Minister, public sector employee, statutory officer or officer of a public body, to further, directly or indirectly, the private interests of the Member, a member of the Member's family, or a business associate of the Member.

- 1.13 This clause entitled 'Improper Influence' replaced a previous section of the Code of Conduct concerning 'Bribery', as it is a 'more accurate description of the unethical activities which the clause prohibits' and to 'avoid any confusion with the broader criminal offence of bribery'.²⁰
- 1.14 In keeping with previous Committee and ICAC reports, sub clause (c) was added during the last review to make it clear that the prohibition on improper influence extends beyond parliamentary proceedings to the influence on public officials for private gain outside parliamentary proceedings.²¹

Issues

- 1.15 Under the current Code, Members are prohibited from paid advocacy and lobbying in the course of parliamentary proceedings. In its *Investigation into the regulation of lobbying, access and influence in NSW*, the ICAC recommended that the Code of Conduct be amended to prohibit all paid advocacy by Members of Parliament:

Recommendation 27

That the prohibition on paid advocacy – as outlined in clause 2(a) of the Members' Code of Conduct (Legislative Assembly) and the Members' Code of Conduct (Legislative Council) – be extended beyond the promotion of matters in the NSW Parliament or its committees, to any communication with any other public officials, and that clause 7A of the Constitution (Disclosure by Members) Regulation 1983 (relating to disclosure) be amended accordingly.²²

- 1.16 The ICAC made this recommendation on the basis that:

The core duty of a member of Parliament is to represent the interests of the people of NSW, and all are paid a substantial salary to perform this role. Accepting any

²⁰ Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p.13.

²¹ Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p.12.

²² Independent Commission Against Corruption, [Investigation into the regulation of lobbying, access and influence in NSW](#), 2021, p. 87.

further payment to perform lobbying activities is completely incompatible with this role, amounts to a substantial conflict of interest, and should be prohibited.²³

- 1.17 In addition, in its submission to this inquiry reviewing the Code of Conduct, the ICAC have recommended that the prohibitions in clauses 2(b) and 2(c) be extended 'to prohibit improper influence on behalf of all persons closely connected with the Member'. They recommended:

Recommendation 5

That the prohibition on improper influence as outlined in clauses 2(b) and 2(c) of the Code of Conduct be amended, to ensure it extends to a member of Parliament seeking to improperly influence other public officials on behalf of any other person with whom the member is closely connected.²⁴

- 1.18 In its *Investigation into the conduct of the local member for Drummoyne* the ICAC stated that the conduct outlined in its investigation report demonstrated that the Member had 'used his position to try and influence the exercise of official functions of another sphere of government in pursuit of his private interests.'²⁵ They found that had 'the current [2020] code applied at the time that is the subject of this investigation, Mr Sidoti's conduct, as found, would have constituted a substantial breach of the Members' Code.'²⁶

Committee comment

- 1.19 The reconstituted Committee in the 58th Parliament should consider whether to amend the Code of Conduct to prohibit all forms of paid advocacy. The Committee should also consider whether the prohibition on improper influence as outlined in clauses 2(b) and (c) should be amended to ensure that it extends to a Member of Parliament seeking to improperly influence other public officials on behalf of any other person with whom the Member is closely connected.

Finding 4

The reconstituted Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics in the 58th Parliament should consider whether to amend the Code to prohibit all forms of paid advocacy. The Committee should also consider whether the prohibition on improper influence as outlined in clauses 2(b) and (c) should be amended to ensure that it extends to a Member of Parliament seeking to improperly influence other public officials on behalf of any other person with whom the Member is closely connected.

²³ Independent Commission Against Corruption, [Investigation into the regulation of lobbying, access and influence in NSW](#), 2021, p. 87.

²⁴ Submission 2, [Independent Commission Against Corruption](#), p. 11.

²⁵ Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.179.

²⁶ Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.179.

Proper exercise of power – Use of public resources – Clause 3

Current clause

1.20 The current clause regarding the use of public resources reads as follows:

3. Use of public resources

The use of public resources should not knowingly confer any undue private benefit on the Member or, on any other person, or entity. Members must take reasonable steps to apply the public resources to which they are granted access according to any guidelines or rules about the use of those resources.

Commentary

There is a range of information available to Members to assist them in determining the accurate and appropriate use of resources including:

- *The Legislative Assembly Members' Guide;*
- *The Legislative Council Members' Guide;*
- *The Department of Parliamentary Services Members' Entitlements Handbook; and*
- *The Parliamentary Remuneration Tribunal's Annual Report and Determination of Additional Entitlements for Members of the Parliament of New South Wales.*

In addition it is open to any Member to seek advice on these matters from the Clerks of the House, Senior Parliamentary Officers, or the Parliamentary Ethics Adviser.

1.21 This clause was amended extensively in 2020 to set out the general principle that there should be no conflict between a Member's personal interests and their public duties. A reference was then inserted to refer to the fact that there are specific rules governing the use of public resources which Members must take reasonable steps to comply with. Commentary was added to provide reference to relevant sources of guidance and advice.

Issues

1.22 The ICAC has submitted:

Recommendation 4

That the Code of Conduct be amended to clarify that the intermingling of parliamentary duties with personal or private activities should not, under any circumstances, involve a member of Parliament using their office for personal or private activities nor should it involve the intermingling of those personal or private activities with the following resources:

- (i) parliamentary staff
- (ii) parliamentary offices
- (iii) parliamentary crest, government emblem and stationery

(iv) allowances relating to travel.²⁷

1.23 The ICAC recognised that ‘the use of public resources is a vexed issue’ as there can be instances where it is ‘difficult to prevent the intermingling of parliamentary duties and private activities’.²⁸ They identified these four specific areas where there is a significant corruption risk and they considered that in these circumstances, ‘resources should not be intermingled under any circumstances’.²⁹ The ICAC argued that the prohibitions contained in the Members Entitlement handbook, as well as the Parliamentary Remuneration Tribunal Guidelines and previous ICAC investigations into Member conduct would suggest that these areas of intermingling should be strictly regulated. They argued that the ‘clear prohibition in the guidance materials needs to be elevated and should not be buried in the guidelines.’³⁰

Committee comment

1.24 While there are a number of guidance materials available to Members, the Committee agrees that more support, education and training for Members in this area may be of assistance. Consideration should be given in the 58th parliament as to whether to amend the Code to provide a more proscriptive list of public resources that cannot be intermingled with private resources under any circumstances, or whether more education is sufficient.

Finding 5

Consideration should be given in the 58th Parliament as to whether to amend the Code to provide a more proscriptive list of public resources that cannot be intermingled with private resources under any circumstances, or whether more guidance, education and training is sufficient.

Proper exercise of power – Use of confidential information – Clause 4

Current clause

1.25 The current clause regarding the use of confidential information reads as follows:

4 Confidential information

Information which Members receive in confidence in the course of their parliamentary duties should be used only in connection with those duties. It must never be knowingly and improperly used for the private benefit of themselves or any other person or persons.

1.26 During the previous review, this clause was redrafted to give ‘it more fluency and context which would emphasise the essential ethical principle [behind the clause].’³¹

²⁷ Submission 2, [Independent Commission Against Corruption](#), p. 9.

²⁸ Submission 2, [Independent Commission Against Corruption](#), p. 9.

²⁹ Submission 2, [Independent Commission Against Corruption](#), p. 8.

³⁰ Submission 2, [Independent Commission Against Corruption](#), p. 9.

³¹ Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p.17.

Committee comment

- 1.27 The Committee did not receive any comments on this clause and considers that it should be retained in its current form.

Proper exercise of power – Limitation on breach of Code – Clause 5**Current clause**

- 1.28 The current clause regarding limitation on breaches of the Code reads as follows:

5 Limitation on breach of Code

This code is not breached by reason of a benefit or interest that could be or was advanced or received by the persons set out in 2(b)(i)-(iv) by reason of them being a member of the public or a member of a broad class.

- 1.29 This new clause was added as a result of the previous Review of the Code.³²

Committee comment

- 1.30 The Committee did not receive any comments on this clause and considers that it should be retained in its current form.

Openness and accountability – Disclosure of interests – Clause 6**Current clause**

- 1.31 The current clause regarding disclosure of interests reads as follows:

6 Disclosure of interests

Members shall fulfil conscientiously the requirements of the House in respect of the Register of Disclosures by Members.

Commentary

The Constitution (Disclosures by Members) Regulation 1983 (the Regulation) requires that Members lodge regular returns, disclosing certain interests such as real property, interests and positions in corporations, income, debts and gifts.

The Regulation also requires that each Clerk compile and maintain a Register of Disclosures for their respective Houses. The purpose of the Register of Disclosures is to promote greater transparency, openness, and accountability in the parliamentary process.

Members' attention is drawn to the following sources of information and advice on compliance with the requirements of the Regulation:

- *Schedule 1 of the Regulation outlines the requirements for each type of interest to be disclosed, and gives examples as to how to make entries on the return;*

³² Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p.19.

- *The respective guides for Members of the Legislative Assembly and the Legislative Council explain the requirements of the pecuniary interest disclosure regime in plain language, with examples where possible; and*
- *It is also open to any Member to seek advice on these matters from the Clerks of the House or the Parliamentary Ethics Adviser.*

In conjunction with the Regulation and this code, the following Standing Orders apply in relation to personal or pecuniary interests:

- *Legislative Assembly Standing Orders 176-7 and Legislative Council Standing Order 113(2) on voting in divisions; and*
- *Legislative Assembly Standing Order 276 and Legislative Council Standing Order 210(10) on participating in committee inquiries.*

- 1.32 During the previous review of the Code, this clause was drafted to distinguish between the disclosure of interests and the management of conflicts of interests (which had previously been combined in one clause).³³
- 1.33 This clause was drafted broadly so that it reflects the requirement to comply with the Pecuniary Interests Regulation, rather than seeking to outline the details and specific requirements of the Regulation. It was considered that issues such as whether a Member should disclose the interests of third parties (such as dependent family members) should be addressed in a review of the Regulation.³⁴
- 1.34 The ICAC's *Investigation into the conduct of the local member for Drummoyne* recommended that the Register of Disclosures established under the *Constitution (Disclosures by Members) Regulation 1983* be amended to expand the disclosure requirements. Specifically:

Recommendation 1

That the NSW Government, in consultation with NSW Parliament's Legislative Assembly Privilege and Ethics Committee and Legislative Council Privileges Committee ("NSW Parliament's designated committees"), amends the *Constitution (Disclosures by Members) Regulation 1983* to require:

- the details of interests in trusts, including discretionary trusts and self-managed superannuation funds, to be disclosed as a standalone item
- the details of real property held by discretionary trusts, where a member of Parliament is a potential beneficiary, to be disclosed
- the details of the interests of immediate family members to be disclosed (noting the option to limit access to certain information for privacy reasons)

³³ Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p.9.

³⁴ Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p.11.

- the dispositions of interests to family members or other associates to be disclosed
- ongoing (within 28 days) requirements to update disclosures of interests including for members leaving Parliament
- electronic databases to improve transparency of the registers.³⁵

- 1.35 The Legislative Council Privileges Committee has recently published its Review of the Members' Code of Conduct, which also included a review of the Pecuniary Interests Register. The Legislative Council Committee indicated its support for this recommendation, provided such draft changes to the Regulation are referred to the Legislative Council Privileges Committee and the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics, prior to making the Regulation.³⁶
- 1.36 In November 2022 the NSW Parliament passed the *Integrity Legislation Amendment Act 2022* to 'lay the groundwork for implementation of the Government's response to the ICAC's report'.³⁷ In introducing the bill, the government indicated that it agreed to implement all the ICAC's recommendations and 'is committed to overhauling the disclosure regime for Members of Parliament'.³⁸
- 1.37 The Act was drafted to 'provide clarity and certainty' and 'put beyond doubt' that the Government is able to implement the ICAC's recommendations including 'expand[ing] and improv[ing] the disclosure of pecuniary and other interests by Members of Parliament'.³⁹
- 1.38 A successful amendment was moved by the Opposition to specifically provide for the Regulation to require Members to disclose the details of Members' interests in trusts, including discretionary trusts and self-managed super funds, and the details of real property held by discretionary trusts if a Member is a potential beneficiary.⁴⁰
- 1.39 The Member for Murray also successfully moved an amendment that explicitly provide that the Regulation can cover the disclosure of 'water entitlements and other interests in water'.⁴¹

³⁵ Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.176.

³⁶ Legislative Council Privileges Committee, [Review of the Members' Code of Conduct](#), p.12.

³⁷ The Hon. Alister Henskens SC MP, Minister for Skills and Training, Minister for Science, Innovation and Technology, Minister for Enterprise, Investment and Trade, and Minister for Sport, Legislative Assembly, Second reading speech, [Hansard 9 November 2022](#).

³⁸ The Hon. Alister Henskens SC MP, Minister for Skills and Training, Minister for Science, Innovation and Technology, Minister for Enterprise, Investment and Trade, and Minister for Sport, Legislative Assembly, Second reading speech, [Hansard 9 November 2022](#).

³⁹ The Hon. Alister Henskens SC MP, Minister for Skills and Training, Minister for Science, Innovation and Technology, Minister for Enterprise, Investment and Trade, and Minister for Sport, Legislative Assembly, Second reading speech, [Hansard 9 November 2022](#).

⁴⁰ Mr Ron Hoenig MP, Legislative Assembly, Second reading debate, [Hansard 15 November 2022](#).

⁴¹ Mrs Helen Dalton MP, Legislative Assembly, Second reading debate, [Hansard 15 November 2022](#).

- 1.40 In addition, the Greens successfully moved an amendment requiring that any new regulation must make provision for a searchable electronic register within 12 months after the making of the regulation. This amendment also specified that the electronic register must be accessible by the public, subject to any limitations to protect the privacy of persons other than Members of either House, or to protect the safety of a person or class or persons.⁴²
- 1.41 While stating that the amendments were unnecessary to the implementation of the ICAC's recommendations, the Government did not oppose any of the amendments as they were 'consistent with the Government's intent'.⁴³
- 1.42 There is a statutory requirement that a designated committee of the Legislative Assembly be afforded the opportunity to consider and make representations on any proposed changes to the *Constitution (Disclosure by Members) Regulation 1983*.⁴⁴ In light of the Government's commitment to implement the ICAC recommendations, on 17 November 2022 the House passed a resolution designating this Committee, i.e. the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics, as the relevant committee should any changes be proposed.⁴⁵

Committee comment

- 1.43 The Committee considers that the current requirement in clause 6 that 'Members shall fulfil conscientiously the requirements of the House in respect of the Register of Disclosures by Members' is appropriate. It allows for the Code to remain current and accommodate any future changes to the *Constitution (Disclosure by Members) Regulation 1983*.
- 1.44 The Committee has previously made a number of recommendations to amend and improve the Regulation⁴⁶, as has the ICAC in its *Investigation into the conduct of the local member for Drummoyne*. The Government has signalled its intention to bring forward draft changes to the Regulation implementing the ICAC's recommendations. When the draft amendments to the Regulation are available, the Committee will carefully review the provisions.
- 1.45 As a consequence of recent legislative amendments, the *Constitution Act 1902* now requires that a searchable and publicly accessible electronic register be available within 12 months of the passing of any new regulation. There will be technical and funding issues associated with this transition, and additional resources required for the parliamentary administration to support the design and maintenance of this new electronic Register. The Committee anticipates it will have further comments and recommendations in relation to this issue when it reviews the draft Regulation.

⁴² Mr Jamie Parker MP, Second reading debate, [Hansard 15 November 2022](#).

⁴³ The Hon. Damien Tudehope MLC, Minister for Finance, and Minister for Employee Relations, Legislative Council, Second reading speech, [Hansard 17 November 2022](#).

⁴⁴ *Constitution Act 1902*, section 14A(5).

⁴⁵ Legislative Assembly, [Votes and Proceedings No.164](#), 17 November 2022, p. 2022.

⁴⁶ Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics, [Review of the Pecuniary Interest Register](#), Report 2/56, November 2018.

Finding 6

The Government has indicated that it intends to amend the *Constitution (Disclosure by Members) Regulation 1983* to implement recommendations of the Independent Commission Against Corruption (ICAC). When the draft amendments to the Regulation are available, the Committee will carefully review the provisions.

Openness and accountability – Conflicts of interest – Clause 7

Current clause

1.46 The current clause regarding conflicts of interest reads as follows:

7 Conflicts of interest

Members must take reasonable steps to avoid, resolve or disclose any conflict between their private interests and the public interest. The public interest is always to be favoured over any private interest of the Member.

Members shall take reasonable steps to draw attention to any conflicts between their private interests and the public interest in any proceeding of the House or its Committees, and in any communications with Ministers, Members, public officials or public office holders.

A conflict of interest does not exist where the Member is only affected as a member of the public or a member of a broad class.

Commentary

Members should be aware of the important distinction between disclosing an interest and having a conflict of interest.

There are certain pecuniary interests that must be disclosed on the Register of Disclosures although these may never come into conflict with a Members' duties. There are also interests that are not required to be disclosed on the Register of Disclosures but which could give rise to a conflict of interest if they are not managed appropriately.

It is open to any Member to seek advice on these matters from the Clerks of the House or the Parliamentary Ethics Adviser.

1.47 This clause was amended as part of the previous Committee review to clearly distinguish between the disclosure of interests and managing conflicts of interest. The report explained that having two separate clauses would draw out the important distinction and explained: 'A disclosure process does enable conflicts of interest to be identified and managed where they arise; but equally a Member's private interests may never come into conflict with their public duty and these two issues should not be confused.'⁴⁷

⁴⁷ Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p.9.

Issues

- 1.48 In its submission to this inquiry, the ICAC has recommended that this section be amended:
- Recommendation 3
- That the conflicts of interest provisions of the Code of Conduct be reviewed to introduce a clear, consistent and comprehensive conflict of interest definition. The Code should also be amended to make it clear that personal interests can arise from non-financial matters and close associations.
- 1.49 The ICAC submitted the following definition of a conflict of interest – ‘a conflict of interest exists when a reasonable person might perceive that a public official’s personal interest(s) could be favoured over their public duties’.⁴⁸ They state that this test is an objective, or ‘reasonable person’ test. This was based on the ICAC’s experience that ‘public officials find it difficult to take an objective view of the status of their own personal relationships’ and it is ‘therefore imperative to consider how others might view the situation’.⁴⁹
- 1.50 They stated that the ‘complex working environment of members of Parliament requires detailed guidelines and clear processes to assist them to navigate ethical challenges involving conflicts of interest’.⁵⁰ They identified systemic weaknesses with the current mechanism regarding the recognition, disclosure and management of conflicts of interest including:
- i They ‘rely heavily on self-regulation, as the conflict of interest regime envisaged by the Code of Conduct lacks mechanisms to monitor and enforce its requirements (apart from the oversight provided by the Commission)’
 - ii The separate conflict of interest requirements via the separate codes of conduct for Members and Ministers/Parliamentary Secretaries ‘...are quite different and lack consistency’ and the ‘lack of uniformity and differing standards can potentially create confusion for those subject to both Codes’
 - iii The separate regimes ‘should still have an internal consistency about core aspects, including a:
 - Consistent definition of a conflict of interest
 - Generally consistent approach to the principles and steps taken regarding avoiding, recognising, disclosing and managing conflicts of interest’.⁵¹
- 1.51 The ICAC also made a similar recommendation in their report on the *Investigation into the conduct of the local member for Drummoyne*, including recommending the establishment of a mandatory conflicts of interest register. They recommended:

⁴⁸ Submission 2, [Independent Commission Against Corruption](#), p. 6.

⁴⁹ Submission 2, [Independent Commission Against Corruption](#), p. 6.

⁵⁰ Submission 2, [Independent Commission Against Corruption](#), p. 6.

⁵¹ Submission 2, [Independent Commission Against Corruption](#), p. 7.

RECOMMENDATION 3

That NSW Parliament's designated committees include a clear, consistent and comprehensive conflict of interest definition in the Code of Conduct for Members. This review should include a consideration of the relevant definitions in the Ministerial Code of Conduct and any opportunities for achieving a consistent approach in regard to avoiding, recognising, disclosing and managing conflicts of interest.

RECOMMENDATION 4

That the NSW Government, in consultation with NSW Parliament's designated committees, amends the Constitution (Disclosures by Members) Regulation 1983 to provide for the mandatory registration of conflicts of interest by members of Parliament via the creation of a register for this purpose (noting the option to limit access to certain information for privacy reasons).

- 1.52 In its recently published report on its Review of the Members' Code of Conduct, the Legislative Council Privileges Committee commented that the ICAC's recommendation for a mandatory conflicts of interest register 'would be a significant change that would have implications for Members and the parliamentary administration'.⁵² They suggested that while open to such a proposal, there would need to be further consultation with Members and discussion with other stakeholders. In particular, they recommended:

Recommendation 4

That the committee in the new Parliament discuss further the proposal for a mandatory conflicts of interest register with the ICAC, the Independent Complaints Officer and the Parliamentary Ethics Adviser, and then seek the views of members on a specific proposal.

Committee comment

- 1.53 The Committee agrees with the Legislative Council Privileges Committee that the creation of a separate and mandatory conflict of interests register is a significant change that would require consultation with Members and other stakeholders.
- 1.54 As with the changes to the pecuniary interests register, there will be technical and funding issues associated with the establishment of this register, and additional resources required for the parliamentary administration for its design and maintenance, as well as a training and education program for Members. The Committee anticipates it will have further comments and recommendations in relation to this issue when it reviews draft amendments to the *Constitution (Disclosure by Members) Regulation 1983*.

⁵² Legislative Council Privileges Committee, [Review of the Members' Code of Conduct](#), Report 90, November 2022, p.16.

Finding 7

The Committee considers that the creation of a separate and mandatory conflict of interests register is a significant change that would require consultation with Members and other stakeholders.

Openness and accountability – Gifts – Clause 8

Current clause

1.55 The current clause regarding gifts reads as follows:

8 Gifts

(a) Members must take reasonable steps to disclose all gifts and benefits received in connection with their official duties, in accordance with the requirements for the disclosure of pecuniary interests.

(b) Members must not knowingly accept gifts that could reasonably be expected to give rise to a conflict of interest or could reasonably be perceived as an attempt to improperly influence the Member in the exercise of his or her duties.

(c) Nothing in this Code precludes the giving or accepting of political donations in accordance with the Electoral Funding Act 2018.

Commentary

The Constitution (Disclosures by Members) Regulation 1983 (the Regulation) requires that Members lodge regular returns, disclosing certain interests such as real property, interests and positions in corporations, income, debts and gifts.

The Regulation also requires that each Clerk compile and maintain a Register of Disclosures for their respective Houses. The purpose of the Register of Disclosures is to promote greater transparency, openness, and accountability in the parliamentary process.

Members' attention is drawn to the following sources of information and advice on compliance with the requirements of the Regulation:

- *Schedule 1 of the Regulation outlines the requirements for each type of interest to be disclosed, and gives examples as to how to make entries on the return;*
- *The respective guides for Members of the Legislative Assembly and the Legislative Council explain the requirements of the pecuniary interest disclosure regime in plain language, with examples where possible; and*
- *It is also open to any Member to seek advice on these matters from the Clerks of the House or the Parliamentary Ethics Adviser.*

1.56 During the previous review of the Code, this clause was left largely unchanged, except for some minor amendments to ensure consistency with other clauses and the addition of commentary.

Committee comment

- 1.57 The Committee did not receive any comments on this clause and considers that it should be retained in its current form.

Upholding the Code – Clause 9**Current clause**

- 1.58 The current clause regarding upholding the code reads as follows:

9 Upholding the Code

Members have a duty to cooperate fully with any processes established under the authority of the House concerning compliance with this Code.

Breaches of this Code may result in action being taken by the House in relation to a Member. A substantial breach of the Code may constitute corrupt conduct for the purposes of the *Independent Commission Against Corruption Act 1988*.

This resolution has continuing effect unless and until amended or rescinded by resolution of the House.

- 1.59 This clause was added as a result of the previous Review of the Code. A reference to a substantial breach of the Code that could amount to corrupt conduct and be investigated by the ICAC was added ‘so that the Code is rightly seen as setting the standards and showing that there is a means of enforcing those standards’.⁵³

Issues

- 1.60 In March 2022, the Legislative Council made a minor amendment to clause 9 in recognition of the establishment of the Parliament's Independent Complaints Officer. They inserted the following sentence about the Independent Complaints Officer, in addition to the existing reference to the consequences of breaches of the Code – ‘A minor breach of this Code may be the subject of an investigation by the Independent Complaints Officer.’⁵⁴

Committee comment

- 1.61 The Committee considers that the House and the Committee in the 58th Parliament should consider whether to amend the Code to include specific reference to the jurisdiction of the Independent Complaints Officer.⁵⁵

Finding 8

The Committee considers that the House and the Legislative Assembly Committee on Parliamentary Privilege and Ethics in the 58th Parliament should

⁵³ Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics, [Review of the Code of Conduct](#), Report 1/56 – June 2018, p.19.

⁵⁴ Legislative Council, [Minutes of Proceedings](#), 22 March 2022, pp 3039-3045.

⁵⁵ The Legislative Council made this change in March 2022, when passing its resolution to establish the Independent Complaints Officer.

consider whether to amend the Code to include specific reference to the jurisdiction of the Parliament's Independent Complaints Officer.

Bullying, sexual harassment, sexual misconduct, harassment and inappropriate behaviour

- 1.62 While in March 2020 the Legislative Assembly and Legislative Council adopted a new and identical code, in March 2022 the Legislative Council amended their Code by adding a new clause 10 to deal with bullying, harassment and sexual harassment:

Clause 10

A Member must treat their staff and each other and all those working for Parliament in the course of their parliamentary duties and activities with dignity, courtesy and respect, and free from any behaviour that amounts to bullying, harassment or sexual harassment.

Commentary

*Section 22(b) of the Anti-Discrimination Act 1977 makes it unlawful for a member to sexually harass a workplace participant or another member in the workplace, or for a workplace participant to sexually harass a member.*⁵⁶

- 1.63 The Council made this change to 'put beyond doubt' that the newly established Independent Complaints Officer could investigate this type of conduct and to 'make a public statement of acceptable standards'. The Legislative Assembly took a different view, and considered that this type of conduct was already covered by work health and safety and anti-discrimination legislation.
- 1.64 In 2021 Elizabeth Broderick & Co were commissioned to conduct an independent review into harmful behaviours in parliamentary workplaces, including bullying, sexual harassment and sexual misconduct. Review participants 'highlighted the gaps in the Members Code of Conduct and the implications of those gaps'.⁵⁷ The review found that this 'could be addressed through strengthening the Members' Codes of Conduct to explicitly address bullying, sexual harassment and sexual misconduct, including a stated commitment to zero tolerance of these harmful behaviours and a high-level outline of compliance arrangements.'⁵⁸
- 1.65 The Broderick Review made the following recommendation in relation to Member conduct and breaches of the Code of Conduct:

2.2 Power imbalance and accountability

⁵⁶ Legislative Council, [Minutes of Proceedings](#), 22 March 2022, pp 3039-3045.

⁵⁷ EB&Co, [Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022](#), p. 54.

⁵⁸ EB&Co, [Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022](#), p. 54.

The Parliamentary Privilege and Ethics Committee (LA), and the Privileges Committee (LC) should clarify the conduct of an MP that can be investigated as a potential breach of the Code of Conduct.⁵⁹

- 1.66 The review made a series of recommendations relating to the creation of an enabling policy environment, including the following recommendation about strengthening the Code of Conduct:

3.1 Codes of Conduct

The Parliamentary Privilege and Ethics Committee (LA), and the Privileges Committee (LC) should review and strengthen the Members' Code of Conduct in each House to address bullying, sexual harassment and sexual misconduct more explicitly. This should include both explicitly prohibiting these behaviours; stronger accountability arrangements; proportional penalties for breach of the Code; and noting the positive obligation on MPs to create and uphold a safe workplace culture.⁶⁰

- 1.67 The review also recommended that any revisions of the Code should ensure that there are provisions that protect survivors and witnesses:

5.5 Protection from retribution

Parliamentary Privilege and Ethics Committee, and Privileges Committee, should ensure that revisions to Codes of Conduct include provisions that protect survivors and witnesses from retribution for making a report.⁶¹

Committee comment

- 1.68 The Committee considers that bullying, harassment, sexual harassment and sexual misconduct are unacceptable and in contravention of work health and safety and anti-discrimination legislation. The Committee has had a significant role in the establishment of the Independent Complaints Officer to receive and investigate allegations of bullying, harassment, and inappropriate behaviour by Members.
- 1.69 The Committee considers that the House and Committee in the 58th Parliament should determine whether an explicit provision should be inserted into the Code of Conduct dealing with these matters.

Finding 9

The Committee considers that the House and the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics in the 58th Parliament should determine whether an explicit provision should be inserted into the Code

⁵⁹ EB&Co, [Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022](#), p. 54.

⁶⁰ EB&Co, [Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022](#), p. 77.

⁶¹ EB&Co, [Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022](#), p. 81.

dealing with bullying, sexual harassment, sexual misconduct, harassment and inappropriate behaviour.

Training and guidance materials

Training and guidance for Members on ethical obligations

1.70 In its *Investigation into the conduct of the local member for Drummoyne* the ICAC made a number of recommendations calling for more training and guidance for Members on their ethical obligations.

1.71 In relation disclosure obligations, the ICAC have recommended that guidance material be updated:

RECOMMENDATION 2

That the Speaker of the Legislative Assembly, the President of the Legislative Council and the relevant parliamentary departments jointly ensure that the guidance material for members of Parliament is updated to provide details about their disclosure obligations pursuant to the Constitution (Disclosures by Members) Regulation 1983 (pending implementation of recommendation 1).⁶²

1.72 In relation to conflicts of interest, the ICAC have recommended that guidance materials be updated to particularly make reference to how to avoid, resolve and disclose conflicts of interest:

RECOMMENDATION 5

That the Speaker of the Legislative Assembly, the President of the Legislative Council and the relevant parliamentary departments jointly ensure that the guidance material for Members of Parliament be updated to provide details about their obligations pursuant to clause 7 of the Code of Conduct for Members, on how to take reasonable steps to avoid, resolve and disclose a conflict of interest, and the registration of conflicts of interest (pending implementation of recommendations 3 and 4).⁶³

1.73 In relation to the proper and improper exercise of power and undue influence, the ICAC have recommended specific training for Members and the updating of guidance material:

RECOMMENDATION 6

That the Speaker of the Legislative Assembly, the President of the Legislative Council and the relevant parliamentary departments jointly develop and/or update specific training and guidance material about the proper and improper exercise of power by members and undue influence, in line with findings made by this investigation.⁶⁴

⁶² Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.177 – see recommendation 2.

⁶³ Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.177 – see recommendation 5.

⁶⁴ Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.177 – see recommendation 6.

- 1.74 In relation to the improper intermingling of public resources with personal interests, the ICAC also recommended more training and updated guidance materials:

RECOMMENDATION 7

That the Speaker of the Legislative Assembly, the President of the Legislative Council and the relevant parliamentary departments jointly develop and/or update specific training and guidance material about the improper intermingling of public resources with personal interests, in line with findings made by this investigation.⁶⁵

Committee comment

- 1.75 The Committee recognises that while there are currently resources and training opportunities for Members, more could be done to assist and educate Members on the areas identified by the ICAC and on other aspects of the Code of Conduct.
- 1.76 The Committee has a statutory role ‘to carry out educative work relating to ethical standards applying to Members of the Legislative Assembly’.⁶⁶ The Committee recognises the importance of this role, and has recently added Member training and development, including new Member induction, as a standing agenda item for its meetings.
- 1.77 The Committee welcomes recent correspondence from the new ICAC Chief Commissioner offering to partner with the Committee to develop integrity awareness educational initiatives that could be of assistance to Members of the Legislative Assembly. For example, the Chief Commissioner noted that the ICAC would be interested in partnering with the Committee to develop educational tools such as:
- Short-form printed advisory materials about the duties and obligations of Members with reference to relevant case studies; and
 - Pilot face-to-face or online training for Members addressing aspects of the Code of Conduct.⁶⁷
- 1.78 The Committee has recently met with the new ICAC Chief Commissioner and had productive discussions about training opportunities, resulting in a workshop for departing Members highlighting specific corruption risks and plans for the ICAC to participate in the new Member induction program after the March 2023 election.

Finding 10

While there are currently resources and training opportunities for Members, more could be done to assist and educate Members on areas that have been identified by the ICAC including disclosure obligations, conflicts of interest and proper exercise of power; and on other aspects of the Code. The Committee

⁶⁵ Independent Commission Against Corruption, [Investigation into the conduct of the local member for Drummoyne](#), July 2022, p.177 – see recommendation 7.

⁶⁶ Section 72E(1)(B), [Independent Commission Against Corruption Act 1988](#).

⁶⁷ The Hon. John Hatzistergos AM, Chief Commissioner of the Independent Commission Against Corruption, *Letter to the Chair of the Legislative Assembly Committee on Parliamentary Privilege and Ethics*, 25 August 2022.

should continue to work with the ICAC to develop integrity awareness educational initiatives for Members.

Public interest disclosures

- 1.79 In another matter that is relevant for training and guidance materials that the Parliament produces, in his submission to the inquiry, the Ombudsman of NSW raised the issue of public interest disclosures (PIDs). The Ombudsman noted that the Parliament, including the Department of the Legislative Council, the Department of the Legislative Assembly and the Department of Parliamentary Services, come within the remit of the PID scheme established under the *Public Interest Disclosures Act 1994* (the PID Act). Consequently, it is possible that a complaint or report that a Member has breached the Code might also be a PID.
- 1.80 The Ombudsman further noted that if a complaint or report is a PID, certain protections for the person making the PID apply, as do certain obligations on the part of the Parliament and other agencies regarding their handling and reporting on the PID. The Ombudsman identified that it is important that those receiving and investigating Code complaints or reports are aware of the need to consider whether the complaints could also be PIDs, and of the resulting requirements and protections.
- 1.81 However, the Ombudsman observed that currently the Code does not set out a process under which complaints are handled and consequently it does not incorporate any PID assessment mechanisms. In the circumstances, the fact that a complaint is also a PID could be missed.
- 1.82 The Ombudsman suggested that to ensure complaints that are PIDs are appropriately handled, the Committee may wish to:
- Note, perhaps at clause 9 of the Code, the possible application of the PID Act to some complaints and reports.
 - Explain the arrangements for handling such complaints to ensure they are assessed and dealt with in compliance with the PID Act.
- 1.83 In addition, the Ombudsman recommended that any separate procedures document should:
- Note the possibility that Code complaints or reports may be PIDs.
 - Incorporate an initial assessment step where attention is specifically drawn to the requirement to assess whether the report of misconduct is also a PID.
 - Note the type of misconduct that might fall under the PID Act.
- 1.84 The Ombudsman also suggested that the Committee may wish to make the Parliament's Independent Complaints Officer a nominated disclosure officer under the PID Act, meaning that he or she would be someone to whom PIDs, for example by staff of Parliament, could be made. The Ombudsman stated that this would assist to ensure disclosures made regarding Members are handled

appropriately and that those reporting suspected breaches are protected, including from unlawful reprisals.⁶⁸

Committee comment

- 1.85 The Committee acknowledges that it is very important that any complaints or reports made concerning breaches of the Code that are also PIDs are managed appropriately, in accordance with the applicable legislation. Suitable complaint handling procedures that set out an appropriate PID assessment process are essential in this regard.
- 1.86 The Committee further observes that to be comprehensive, such complaint handling procedures must incorporate a level of detail that may not be suitable for inclusion in the Code itself. The Code should set out the general framework for the ethical conduct of Members in a relatively succinct document that is easy for Members and staffers to refer to. Following from this, administrative detail surrounding the way in which any departure from that framework will be handled should be set out in guidance materials that sit under the Code.
- 1.87 In the circumstances, the Committee is of the view that the Committee in the new Parliament, consistent with the Ombudsman's submission, should consider recommending that guidance materials that sit under the Code:
- Note the possibility that Code complaints or reports may be PIDs.
 - Incorporate an initial assessment step where attention is specifically drawn to the requirement to assess whether the report of misconduct is also a PID.
 - Note the type of misconduct that might fall under the PID Act.
- 1.88 With regard to the Ombudsman's comments concerning the Parliament's Independent Complaints Officer, the Protocol of the Independent Complaints Officer was tabled in the Legislative Assembly on 17 November 2022, approximately 7 months after the Ombudsman had lodged his submission concerning the Committee's review of the Code.
- 1.89 Clause 11 of the Protocol provides that while the Independent Complaints Officer is not a disclosure officer for the purposes of the PID Act, it is possible that a complaint made to the him or her is a PID, for example, because the complainant previously made a PID to a disclosure officer regarding the same matter. Clause 11 of the Protocol further provides that in these circumstances the protections provided under the PID Act will continue to protect the person making the complaint. In addition the Protocol notes that the fact that the ICO is not a disclosure officer may change with the new *Public Interest Disclosures Act 2022* which is due to commence mid-2023.⁶⁹

⁶⁸ Submission 1, [Ombudsman New South Wales](#).

⁶⁹ [Independent Complaints Officer Protocol 17 November 2022](#)

Finding 11

The Committee considers that the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics in the 58th Parliament should consider recommending that guidance materials that sit under the Code:

- **note the possibility that Code complaints or reports may be public interest disclosures that must be dealt with in accordance with the *Public Interest Disclosures Act 1994*, or the *Public Interest Disclosures Act 2022* on its commencement;**
- **incorporate an initial assessment step where attention is specifically drawn to the requirement to assess whether the report of misconduct is also a public interest disclosure; and**
- **note the type of misconduct that might fall under the public interest disclosures legislation.**

Appendix One – Terms of reference

The inquiry was established on 10 March 2022 to review the Code of Conduct for Members, pursuant to s72E (5) of the *Independent Commission Against Corruption Act 1988*.

Appendix Two – Conduct of Inquiry

Terms of Reference

The inquiry was established on 10 March 2022 to review the Code of Conduct for Members, pursuant to s72E (5) of the *Independent Commission Against Corruption Act 1988*.

Submissions

On 10 March 2022, the Committee resolved to write to the following targeted stakeholders seeking written submissions to its review of the Code of Conduct for Members:

- The Speaker of the Legislative Assembly
- All Members of the Legislative Assembly
- The Chair of the Legislative Council Privileges Committee
- The Parliamentary Ethics Adviser
- The Secretary of the Department of Premier and Cabinet
- The Chief Commissioner of the ICAC
- The Ombudsman of New South Wales
- The Auditor-General for New South Wales.

A list of submissions received can be found at Appendix Three.

Meeting with Broderick & Co and the Department of Parliamentary Services

The Committee also conducted a meeting on 17 June 2022 with Broderick & Co to receive a briefing in anticipation of any recommendations Broderick & Co was considering in light of its review into bullying, harassment and sexual misconduct at the NSW Parliament. Mr Mark Webb, Chief Executive, Department of Parliamentary Services (DPS) also attended the meeting to brief the Committee on preliminary work DPS was undertaking in relation to potential recommendations of the Broderick review.

Meeting with the ICAC

In addition, the Committee conducted a meeting with ICAC representatives on 7 November 2022: Chief Commissioner, the Hon. John Hatzistergos AM; Commissioners the Hon Helen Murrell SC and the Hon Paul Lakatos SC; and Mr Lewis Rangott, Director, Corruption Prevention; at which matters of relevance to the review of the Code of Conduct for Members were discussed.

Appendix Three – Submissions

Submission No 1	Ombudsman New South Wales
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Submission No 2	New South Wales Independent Commission Against Corruption
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Appendix Four – Extracts from minutes

MINUTES OF MEETING No. 24

Wednesday 23 February 2022, 1:15 pm

Room 1245, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch MP (Deputy Chair)

The Hon. Wendy Tuckerman MP

Mr Ron Hoenig MP

Mr Kevin Conolly MP

Ms Melanie Gibbons MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Ms Elspeth Dyer, Manager, House and Procedure

Ms Rickee Murray, PO – Projects, Office of the Clerk

Ms Natasha Zammit, PO – Papers, House and Procedure

The Chair opened the meeting at 1:17 pm

1. Apologies

None received.

2. ***

3. ***

4. ***

5. ***

6. ***

7. ***

8. Review of Code of Conduct for Members

The Committee noted that pursuant to section 72E(5) of the *Independent Commission Against Corruption Act 1988*, and clause 2 of the Committee's establishing resolution, the Committee is to review the Code of Conduct for Members of the Legislative Assembly every four years. The last such review was tabled in the Legislative Assembly on 21 June 2018.

The Committee further noted a briefing note prepared by the secretariat concerning the way in which the last review was conducted, circulated with the meeting papers, and that the

briefing note included a possible timetable for the conduct of a 2022 review of the Code, for the Committee's consideration at its next deliberative meeting.

9. ***

10. ***

11. Next meeting

Committee Secretariat to circulate a meeting date for Members' consideration.

Meeting closed at 2:00 pm.

MINUTES OF MEETING No. 25

Thursday 10 March 2022, 9:00 am

Webex

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch MP (Deputy Chair)

Mr Ron Hoenig MP

Mr Kevin Conolly MP

Ms Melanie Gibbons MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Mr Simon Johnston, Clerk-Assistant, House and Procedure

Ms Elspeth Dyer, Manager, House and Procedure

Ms Rickee Murray, PO – Projects, Office of the Clerk

The Chair opened the meeting at 9:02 am

1. Apologies

The Hon. Wendy Tuckerman MP.

2. Confirmation of Minutes

Resolved, on the motion of Mr Hoenig, seconded by Ms Gibbons: That the draft Minutes of Meeting No. 24 held on 23 February 2022 be confirmed.

3. ***

4. ***

5. ***

6. Review of Code of Conduct for Members

The Committee noted that, as identified at the Committee's meeting on 23 February 2022, pursuant to section 72E(5) of the *Independent Commission Against Corruption Act 1988*, and clause 2 of its establishing resolution, the Committee is to review the Code of Conduct for Members of the Legislative Assembly every four years. The last such review was tabled in the Legislative Assembly on 21 June 2018.

The Committee further noted a briefing note prepared by the secretariat concerning the way in which the last review was conducted, circulated in the papers for the Committee's meeting on 23 February and again included in the meeting papers for this meeting, and that the briefing note included a possible timetable for the conduct of a 2022 review of the Code, for the Committee's consideration.

Resolved, on the motion of Mr Crouch, seconded by Ms Gibbons:

- That the pursuant to section 72E(5) of the *Independent Commission Against Corruption Act 1988*, the Committee conduct a review of the Code of Conduct for Members of the NSW Parliament, and
- That the Chair write to key stakeholders consulted as part of the Committee's last review of the Code, tabled in 2018, seeking submissions on whether the Code remains current or whether it requires amendment, with a submission closing date of 22 April 2022.

7. ***

8. Next meeting

Committee Secretariat to circulate a meeting date for Members' consideration.

Meeting closed at 10:00 am.

MINUTES OF MEETING No. 26

Tuesday 29 March 2022, 1:15 pm

Macquarie Room

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Ron Hoenig MP

Mr Kevin Conolly MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Mr Simon Johnston, Clerk-Assistant, House and Procedure

Ms Elspeth Dyer, Manager, House and Procedure

Apologies: Mr Adam Crouch MP (Deputy Chair), The Hon. Wendy Tuckerman MP, and Ms Melanie Gibbons MP.

The Chair opened the meeting at 1:18 pm.

1. Confirmation of Minutes

Resolved, on the motion of Mr Conolly, seconded by Mr Hoenig: That the draft Minutes of Meeting No. 25 on 10 March 2022 be confirmed.

2. Correspondence

The Committee noted the following correspondence had been sent and received:

- Letters/emails dated 25 March 2022 to the following seeking submissions on Committee's review of Code of Conduct for Members:
 - Ms Margaret Crawford, Auditor-General for NSW;
 - Mr John Evans, Parliamentary Ethics Adviser;
 - The Hon. Peter Hall QC, Chief Commissioner, Independent Commission Against Corruption;
 - Mr Michael Coutts-Trotter, Secretary, Department of Premier and Cabinet;
 - Mr Paul Miller, NSW Ombudsman;
 - The Hon. Jonathan O'Dea, Speaker of the Legislative Assembly;
 - The Hon. Peter Primrose MLC, Chair Legislative Council Privileges Committee; and
 - Members of the Legislative Assembly.

3. ***

4. ***

5. Next meeting

Committee Secretariat to circulate a meeting date for Members' consideration.

Meeting adjourned at 1.30pm.

MINUTES OF MEETING No. 28

Thursday 7 April 2022, 2:30 pm

Webex and Room 1254, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch MP (Deputy Chair)

Mr Alex Greenwich MP

Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Mr Jonathan Elliott, Clerk-Assistant, Scrutiny and Engagement

Ms Elspeth Dyer, Manager, House and Procedure

Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 2:29pm.

1. Apologies

Ms Melanie Gibbons MP

2. Committee Membership

The Committee noted that on 31 March 2022, the House resolved that:

(1) The Standing Committee on Parliamentary Privilege and Ethics have a membership of five Members.

(2) Alexander Hart Greenwich be appointed to serve on the Committee.

(3) Wendy Margaret Tuckerman and Kevin Francis Conolly be discharged from the Committee.

(Votes and Proceedings, 31 March 2022, entry no.18).

3. Confirmation of minutes

Resolved, on the motion of Mr Hoenig, seconded by Mr Crouch: That the minutes of meeting no. 26 held on 29 March 2022 be confirmed.

4. ***

5. ***

6. ***

7. ***

8. Next meeting

Further, the Committee agreed that the Committee Secretariat is to circulate a date for the next meeting of the Committee for Members' consideration.

Meeting adjourned at 3.39pm.

MINUTES OF MEETING No. 29

Wednesday 27 April 2022 9:30 am

Webex and Macquarie Room, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch MP (Deputy Chair)

Ms Melanie Gibbons MP

Mr Alex Greenwich MP

Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Ms Carly Maxwell, Deputy Clerk

Mr Jonathan Elliott, Clerk-Assistant, Scrutiny and Engagement

Ms Elspeth Dyer, Manager, House and Procedure

Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 9:49 am.

1. Confirmation of minutes

Resolved, on the motion of Mr Hoenig, seconded by Mr Greenwich:

- ***

- That the draft minutes of meeting no. 28 on 7 April 2022 be confirmed.

2. Review of the Code of Conduct for Members

2.1 Contact from the Department of Parliamentary Services

The Committee noted that on 12 April 2022, the Department of Parliamentary Services (DPS, Ms Joanna Mawson-Lee), contacted the secretariat noting work DPS is doing to implement some of the policy and procedure changes arising from any recommendations of the independent review that Elizabeth Broderick is conducting into bullying, harassment and sexual misconduct at the NSW Parliament.

In this context, Ms Mawson-Lee sought some information about the review of the Code of Conduct for Members that the Committee currently has on foot, and noted that DPS would welcome the opportunity to contribute.

The Chair noted that the Committee may wish to seek a briefing from DPS (Mr Mark Webb) concerning any preparatory work DPS is undertaking around relevant policies and procedures as they relate to the Broderick review.

Discussion ensued.

Resolved, on the motion of Mr Greenwich, seconded by Mr Hoenig:

That the Chair write to Mr Mark Webb, Chief Executive, Department of Parliamentary Services, on behalf of the Committee seeking a briefing on preparatory work the Department is undertaking around policies and procedures, in anticipation of recommendations of the Broderick Review into bullying, harassment and sexual misconduct in the NSW Parliament.

2.2 Submissions received

The Committee noted the submission to the inquiry lodged by the Ombudsman of New South Wales circulated in advance of the meeting.

Resolved, on the motion of Ms Gibbons, seconded by Mr Greenwich:

That the Committee publish submission 1 to its review of the Code of Conduct for Members from the Ombudsman of New South Wales, on the inquiry webpage.

3. ***

4. ***

5. Next meeting

Committee secretariat to circulate a meeting date for Members' consideration.

Meeting adjourned at 11:20am.

MINUTES OF MEETING No. 31

Tuesday 10 May 2022 1:15 pm

Webex and Room 814/815, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch MP (Deputy Chair)

Ms Melanie Gibbons MP

Mr Alex Greenwich MP

Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Mr Jonathan Elliott, Clerk-Assistant, Scrutiny and Engagement

Ms Elspeth Dyer, Manager, House and Procedure

Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 1:17 pm.

1. Apologies

None received.

2. Confirmation of minutes

Resolved, on the motion of Mr Crouch, seconded by Mr Greenwich:

- That the draft minutes of meeting no. 29 on 27 April 2022 be confirmed.

- ***

3. Correspondence

The Committee noted correspondence sent to Mr Mark Webb, Chief Executive, Department of Parliamentary Services (DPS) dated 28 April 2022 seeking a briefing on work DPS is undertaking

around policies and procedures in anticipation of the recommendations of the Broderick Review.

The Committee further noted a response received from Mr Webb dated 2 May 2022 stating that DPS would be pleased to organise a briefing by Broderick and Co to the Committee in anticipation of any recommendations it is considering. The response also advised that DPS is undertaking preliminary work in relation to potential recommendations and can also share with the Committee some of that early work.

Discussion ensued.

Resolved, on the motion of Mr Greenwich, seconded by Mr Hoenig:

That the Committee secretariat contact the Department of Parliamentary Services to arrange a joint briefing for the Committee from Broderick and Co and the Department of Parliamentary Services.

4. ***

5. Review of the Code of Conduct for Members

The Committee noted a submission from the Independent Commission Against Corruption (ICAC), to its review of the Code of Conduct for Members, which was circulated to Members in advance of the meeting.

Discussion ensued.

Resolved, on the motion of Mr Greenwich, seconded by Mr Crouch:

That the Committee publish submission 2 to its review of the Code of Conduct for Members from the Independent Commission Against Corruption, on the inquiry webpage.

6. ***

7. ***

8. Next meeting

Wednesday 18 May 2022 at 1:15pm.

Meeting adjourned at 1:52pm.

MINUTES OF MEETING No. 32

Wednesday 18 May 2022 1:15 pm
Room 1043, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Ms Melanie Gibbons MP

Mr Alex Greenwich MP

Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Mr Jonathan Elliott, Clerk-Assistant, Scrutiny and Engagement

Mr Simon Johnston, Clerk-Assistant, House and Procedure

Ms Elspeth Dyer, Manager, House and Procedure

Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 1:18pm.

1. Apologies

Mr Adam Crouch MP (Deputy Chair)

2. Confirmation of minutes

Resolved, on the motion of Mr Greenwich, seconded by Mr Hoenig:

That the draft minutes of meeting no. 31 held on 10 May 2022 be confirmed.

3. ***

4. ***

5. Next meeting

Committee secretariat to circulate a date for Members' consideration.

Meeting adjourned at 1:54pm.

MINUTES OF MEETING No. 34

Friday 17 June 2022 11:00 am

Webex and Room 1254, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch (Deputy Chair)

Ms Melanie Gibbons MP

Mr Alex Greenwich MP

Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Mr Simon Johnston, Clerk-Assistant, House and Procedure

Ms Elspeth Dyer, Manager, House and Procedure

Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 11:04am.

1. Apologies

None received.

2. ***

3. Briefing with Broderick & Co. and Mr Mark Webb, Chief Executive, Department of Parliamentary Services

The Chair noted the Committee's resolution of 10 May 2022 to invite:

- Broderick & Co to a meeting to brief the Committee in anticipation of any recommendations it is considering in light of its review into bullying, harassment and sexual misconduct at the NSW Parliament; and
- The Department of Parliamentary Services (DPS) to the same meeting to brief the Committee on preliminary work DPS is undertaking in relation to potential recommendations of the Broderick review.

Resolved, on the motion of Ms Gibbons, seconded by Mr Crouch:

That representatives of Broderick & Co and Mr Mark Webb, Chief Executive, Department of Parliamentary Services, be authorised to attend the Committee's meeting on 17 June 2022.

Ms Elizabeth Broderick AO and Ms Lisa Ryan of Broderick & Co; and Mr Mark Webb, Chief Executive, DPS were admitted to the meeting at 11:07am.

The Chair welcomed Ms Broderick, Ms Ryan and Mr Webb.

Mr Greenwich joined the meeting at 11:14am.

Ms Broderick, Ms Ryan and Mr Webb briefed the Committee and discussion ensued.

Ms Broderick, Ms Ryan and Mr Webb withdrew at 12:24pm.

4. ***

5. ***

6. ***

7. Next meeting

Committee secretariat to circulate a date for Members' consideration.

Meeting adjourned at 1:29pm.

MINUTES OF MEETING No. 35

Thursday 23 June 2022 5:00 pm

Room 1254, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch (Deputy Chair)

Ms Melanie Gibbons MP

Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Mr Simon Johnston, Clerk-Assistant, House and Procedure

Ms Elspeth Dyer, Manager, House and Procedure

The Chair opened the meeting at 5:02 pm.

1. Apologies

Mr Alex Greenwich MP.

2. Confirmation of minutes

Resolved, on the motion of Ms Gibbons, seconded by Mr Crouch:

That the draft minutes of meeting no. 34 held on 17 June 2022 be confirmed.

3. ***

4. ***

5. ***

6. Next meeting

Committee secretariat to circulate a date for Members' consideration.

Meeting adjourned at 5:28pm

MINUTES OF MEETING No. 36

Tuesday 2 August 2022 2:30 pm

Webex/Room 813A, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch (Deputy Chair)

Ms Melanie Gibbons MP
Mr Alex Greenwich MP
Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly
Ms Carly Maxwell, Deputy Clerk
Mr Simon Johnston, Clerk-Assistant, House and Procedure
Mr Jonathan Elliott, Clerk-Assistant, Scrutiny and Engagement
Ms Elspeth Dyer, Manager, House and Procedure
Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 2:34 pm.

1. Apologies

None received.

2. Confirmation of minutes

Resolved, on the motion of Mr Hoenig, seconded by Ms Gibbons:
That the draft minutes of meeting no. 35 held on 23 June 2022 be confirmed.

3. ***

Resolved, on the motion of Mr Greenwich, seconded by Mr Crouch:
That the Committee reorder the items of business at today's meeting to bring forward item 5.2

5. ***

5.2 ***

4. ***

5. ***

5.1 ***

6. ***

7. Next meeting

Committee secretariat to circulate a date for Members' consideration.

Meeting adjourned at 3:51pm.

MINUTES OF MEETING No. 38

Tuesday 20 September 2022 1:30 pm
Room 1043, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)
Mr Adam Crouch (Deputy Chair)
Ms Melanie Gibbons MP
Mr Alex Greenwich MP
Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly
Ms Carly Maxwell, Deputy Clerk
Ms Elspeth Dyer, Manager, House and Procedure

The Chair opened the meeting at 1:36 pm.

1. Apologies

None received.

2. Confirmation of minutes

Resolved, on the motion of Mr Crouch, seconded by Mr Greenwich:

That the draft minutes of meeting no. 36 held on 2 August 2022 *** be confirmed.

3. ***

4. ***

5. ***

6. Correspondence from the ICAC concerning*integrity awareness initiatives**

Further, the Chair noted that the Committee has received a letter from the Hon. John Hatzistergos AM, Chief Commissioner of the ICAC, dated 25 August 2022 concerning integrity awareness initiatives for Members of the NSW Parliament. It was circulated with the meeting papers with a Chair's draft response that proposes a meeting between the Committee and the ICAC.

Discussion ensued.

Resolved, on the motion of Mr Greenwich, seconded by Mr Crouch:

- That the Chair's draft response to the Hon John Hatzistergos AM, Chief Commissioner of the ICAC, concerning integrity awareness initiatives for Members and proposing a meeting between the Committee and the ICAC, be sent as circulated.
- That the Committee consider any required integrity awareness initiatives for Members following its meeting with the ICAC.

7. ***

8. Review of Members' Code of Conduct

The Deputy Clerk provided an update concerning matters of relevance for the inquiry the Committee currently has on foot to review the Members' Code of Conduct.

9. ***

10. Next meeting

Committee secretariat to circulate a date for Members' consideration.

Meeting adjourned at 2.00pm.

MINUTES OF MEETING No. 39

Monday 10 October 2022 11:30 am

Webex/Room 1254, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch (Deputy Chair)

Ms Melanie Gibbons MP

Mr Alex Greenwich MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Ms Carly Maxwell, Deputy Clerk

Ms Elspeth Dyer, Manager, House and Procedure

Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 11:36 am.

1. Apologies

Mr Ron Hoenig MP

2. Confirmation of minutes

Resolved, on the motion of Mr Crouch, seconded by Mr Greenwich:

That the draft minutes of meeting no. 38 held on 20 September 2022 be confirmed.

3. ***

4. Correspondence

The Committee noted the following items of correspondence sent:

- Letter to the Hon John Hatzistergos AM, Chief Commissioner of the Independent Commission Against Corruption (ICAC), dated 20 September 2022, regarding a meeting between the ICAC and the Committee to discuss integrity awareness initiatives for Members and other matters.

5. ***

6. Review of Members' Code of Conduct

The Deputy Clerk provided an update to the Committee on work being done by the secretariat to progress the Committee's report for the inquiry.

7. ***

8. ***

9. Next meeting

The Chair noted that a Committee meeting had been scheduled for 7 November 2022 and that if the Committee needed to meet prior to that the secretariat was to circulate a date for Members' consideration.

Meeting adjourned at 1.05pm.

MINUTES OF MEETING No. 40

Monday 7 November 2022 11:00 am
Webex/Room 1254, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)
Mr Adam Crouch (Deputy Chair)
Ms Melanie Gibbons MP
Mr Alex Greenwich MP
Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly
Ms Carly Maxwell, Deputy Clerk
Mr Jonathan Elliott, Clerk-Assistant, Scrutiny and Engagement
Mr Simon Johnston, Clerk-Assistant, Research and Operations
Ms Elspeth Dyer, Manager, House and Procedure
Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 11:06 am.

1. Apologies

None received.

2. Confirmation of minutes

Resolved, on the motion of Mr Greenwich, seconded by Mr Hoenig:

That the draft minutes of meeting no. 39 held on 10 October 2022 be confirmed.

3. ***

4. ***

5. Meeting with the Independent Commission Against Corruption

The Chair noted that, as resolved at the Committee's meeting on 20 September 2022, the Committee was to meet with the ICAC Chief Commissioner and the Commissioners. The Chair also noted that the Chief Commissioner had asked that Mr Lewis Rangott, Director, Corruption Prevention, be included in the meeting.

Resolved, on the motion of Mr Hoenig, seconded by Mr Greenwich:

That the Hon John Hatzistergos AM Chief Commissioner of the ICAC; Commissioners the Hon Helen Murrell SC and the Hon Paul Lakatos SC; and Mr Lewis Rangott, Director, Corruption Prevention, be authorised to attend the meeting.

The Chief Commissioner, Commissioners and Mr Rangott were admitted at 11:31am.

Discussion ensued.

The Chief Commissioner, Commissioners and Mr Rangott withdrew at 12:15pm.

6. ***

7. General Business

The Committee discussed its upcoming meetings and progress on the inquiries that it has on foot: Review of the Code of Conduct for Members ***.

8. Next meeting

The Chair noted that a Committee meeting had been scheduled for 14 November 2022.

Meeting adjourned at 12:37pm.

MINUTES OF MEETING No. 41

Monday 14 November 2022 1:00 pm

Webex/Room 1043, Parliament House

Members present:

Mr Peter Sidgreaves MP (Chair)

Ms Melanie Gibbons MP
Mr Alex Greenwich MP
Mr Ron Hoenig MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly
Ms Carly Maxwell, Deputy Clerk
Ms Elspeth Dyer, Manager, House and Procedure
Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 1.06 pm.

1. Apologies

Mr Adam Crouch MP (**Deputy Chair**)

2. Confirmation of minutes

Resolved, on the motion of Mr Greenwich, seconded by Mr Hoenig:
That the draft minutes of meeting no. 40 held on 7 November 2022 be confirmed.

3. ***

4. ***

5. ***

6. ***

7. ***

8. Inquiries of the Committee – Reporting

The Committee noted that report consideration meetings for the following two inquiries that it has on foot are scheduled to take place after the November 2022 parliamentary sittings:

- ***
- Review of the Code of Conduct for Members.

Discussion ensued.

9. ***

10. Next meeting

The Chair noted that a Committee meeting had been scheduled for 21 November 2022.

Meeting adjourned at 2:00 pm.

UNCONFIRMED MINUTE EXTRACTS OF MEETING No. 42

Wednesday 14 December 2022 3:00 pm

Webex

Members present:

Mr Peter Sidgreaves MP (Chair)

Mr Adam Crouch MP (Deputy Chair)

Ms Melanie Gibbons MP

Mr Alex Greenwich MP

Officers in attendance:

Ms Helen Minnican, Clerk of the Legislative Assembly

Ms Carly Maxwell, Deputy Clerk

Mr Simon Johnston, Clerk-Assistant, Research and Operations

Ms Elspeth Dyer, Manager, House and Procedure

Ms Rickee Murray, Parliamentary Officer

The Chair opened the meeting at 3.07 pm.

1. Apologies

Mr Ron Hoenig MP

2. Confirmation of minutes

Resolved, on the motion of Mr Crouch, seconded by Ms Gibbons:

That the draft minutes of meeting no. 41 held on 14 November 2022 be confirmed.

3. ***

4. ***

5. ***

6. Review of the Code of Conduct for Members

The Chair noted the draft report, Review of the Code of Conduct for Members, tabled at today's meeting and invited the Deputy Clerk to brief the Committee on its contents.

Discussion ensued.

Resolved, on the motion of Mr Greenwich, seconded by Mr Crouch:

- That the secretariat circulate the draft report to the Committee via email for review, inviting any comments by 12 noon, Friday 16 December 2022.
- That provided there is general consensus and there are no substantial proposed changes to consider:
 - the draft report be adopted by the Committee, signed by the Chair, and tabled out of session with the Clerk on Friday 16 December 2022;

- the secretariat be permitted to make appropriate final editing and stylistic changes as required; and
- once tabled, the report be published on the Committee's webpage.
- That if there is not general consensus and/or there are substantial proposed changes to consider, a meeting of the Committee take place to consider the draft report further.

7. ***

8. ***

9. Next meeting

The Committee secretariat to canvass availability for a mid to late January 2023 meeting.

Meeting adjourned at 3:40 pm.