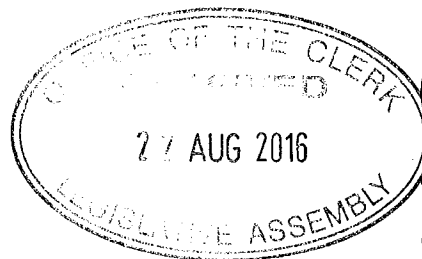


**Supplementary  
Submission  
No 4a**

## **REVIEW OF THE CODE OF CONDUCT FOR MEMBERS**

**Organisation:** Audit Office of NSW  
**Name:** Ms Margaret Crawford  
**Position:** Auditor-General  
**Date Received:** 19 August 2016



Mr M. Coure MP  
 Chair  
 Committee on Parliamentary  
 Privilege and Ethics  
 Parliament House  
 Macquarie Street  
 Sydney NSW 2000

Contact M Crawford  
 Phone No [REDACTED]  
 Our Ref D1624012  
 Your Ref D16/18150 (LAC15/059)

19 August 2016

Dear Mr Coure

### Code of Conduct for Members of Parliament

Thank you for your letter of 20 June 2016.

Firstly, I would like to appraise the committee of recent changes to an accounting standard that are likely to directly impact pecuniary interest declarations, particularly for Cabinet Ministers at the whole-of-government level.

The Accounting Standard AASB 124 on related parties now applies to the Australian Government, State Governments, local councils and other not-for-profit public sector entities. Under this standard:

- all public sector entities will be required to disclose related party transactions and balances in the same way as for-profit public sector and private sector entities
- Cabinet Members are considered to be related parties to each State-controlled agency.

In essence, this means every NSW public sector agency will need to disclose, in its annual financial statements, 'material' related party transactions and balances with:

- Cabinet Members
- close family members of Cabinet Members, and
- entities controlled/jointly controlled by Cabinet Members or their close family members.

It will also mean that as the auditor of the Total State Sector accounts and NSW Government agencies financial statements, my Office will need to sight evidence of Government and agencies compliance with AASB124.

The process for collecting such information and the extent, nature and timing of disclosures has not been finalised. It appears likely that Ministers' disclosures will go beyond the current disclosures required under the Constitution (Disclosures by Members) Regulation 1983 and the Ministerial Code of Conduct.

AASB124 is not intended to include disclosures that are in common with the general public - those entered into under the same terms and conditions as a public citizen. Examples include:

- paying tax, levy, fines or any other statutory charges
- using public services (such as public swimming pools, schools, hospitals, transport)
- receiving electricity, water and other utility services
- renewing a driver's licence.

NSW Treasury is coordinating the Government's position on how best to comply with these new requirements, effective from the 2016/2017 financial year. NSW Treasury has been seeking input from the Department of Premier and Cabinet, my Office and other interested parties.

Concerning your specific questions:

### **1. Actions to be taken for alleged or actual breaches**

Some form of sanction for a breach of the code is desirable, as it would convey to all those affected and the public that there are consequences. This is additional to an electorate's right to dismiss a parliamentarian at regular elections.

Sanctions for breaches of any code also promote public confidence.

The nature and extent of any penalty could be generally described and would likely depend on:

- the nature and seriousness of the breach
- any prior breaches
- the relevance of the breach to the parliamentarian's responsibilities
- the likelihood of the misconduct recurring
- the effect of the proposed sanction
- the presence of mitigating factors.

### **2. Pecuniary interest declarations**

Members should disclose 'material benefits' received by themselves or close family members.

### **3. Secondary employment**

Your question 3 spoke of secondary employment. Our November 2015 letter concerned prior employment covering the past two years.

The desirability of parliamentarians having to declare prior and secondary employment is so the Parliament has ready access to this information. This will place Parliament and the Member in a better position to decide whether the Member should be present during decisions or debate concerning their prior employer's commercial interests.

If prior employment information is already available through the Electoral Funding code there is no particular need to include it in the Code of Conduct for Members of Parliament.

To ensure parliamentarians have ready access to Members' prior and secondary employment information, a register should be implemented and maintained so Members can readily access this information, if needed.

Please call me [REDACTED] should you require any clarification.

[REDACTED]

Margaret Crawford  
Auditor-General of NSW