



Legislative Council

**House—Rules, Resolutions, Officeholders
and Ministerial representation**

First Session of the Fifty-Eighth Parliament

Current as at 25 May 2023

Introduction

Under the NSW Constitution, the Legislative Council has the power to make standing rules and orders to regulate the proceedings of the House and its committees.

New standing orders were adopted by the House in 2022, and approved by the Governor on 20 February 2023. These standing orders determine the operation of the House and committees, and are published in the [Standing Rules and Orders](#).

From time to time the House adopts rules that override, vary or supplement the standing orders. These are known as 'sessional orders' as they lapse at the end of each parliamentary session. In addition to sessional orders, the House may also make 'temporary orders' for a defined period of time (such as the calendar year), or resolutions that have an ongoing effect until amended or rescinded by the House, known as 'resolutions of continuing effect'.

The purpose of this document is to complement the Standing Rules and Orders, by collating the various sessional orders, temporary orders, and resolutions of continuing effect for the 58th Parliament.

Information relating to officeholders and ministerial representation is also contained at the end of the document.

For information regarding sessional orders and resolutions related to the operation of Legislative Council committees, including committee membership, please refer to [Committees—Rules, Resolutions and Membership](#).

David Blunt
Clerk of the Parliaments
May 2023

TABLE OF CONTENTS

PART 1 – SESSIONAL AND TEMPORARY ORDERS.....	1
1. Sitting days (SO 37).....	1
2. Precedence of business (SO 43).....	1
3. Questions (SO 49).....	1
4. Sitting Calendar 2023	2
PART 2 – RESOLUTIONS OF CONTINUING EFFECT	3
1. Broadcast of Proceedings	3
2. Code of Conduct.....	6
3. Parliamentary Ethics Advisor	9
4. Rules for visitors in the galleries	12
5. Records of the House.....	13
6. Smoke-Free Parliament	13
7. Message Stick	14
8. Display of Aboriginal Flag in Legislative Council Chamber	14
9. Procedural Fairness for Inquiry Participants.....	15
10. Parliamentary procurement and modern slavery	17
11. Independent Complaints Officer.....	18
PART 3 – OFFICEHOLDERS AND MINISTERIAL REPRESENTATION	23
1. Officeholders	23
2. Council Ministers represented in the Assembly	23
3. Assembly Ministers represented in the Council	24

Part 1 – Sessional and Temporary Orders

1. Sitting days (SO 37)

That, according to standing order 37, during the current session and unless otherwise ordered, this House meet for the despatch of business each sitting week as follows:

Monday	10.00 am
Tuesday	12.30 pm
Wednesday	10.00 am
Thursday	10.00 am
Friday	10.00 am.

[Resolved 10 May 2023]

2. Precedence of business (SO 43)

That, according to standing order 43, during the current session and unless otherwise ordered:

- (1) Government business is to take precedence of private members' business on Monday, Tuesday, Thursday and Friday each sitting week.
- (2) Private members' business is to take precedence on Wednesday each sitting week.
- (3) Members' statements are to take precedence after Questions on Wednesdays.
- (4) Debate on committee reports and government responses is to take precedence at 5.30 pm on Tuesdays until 6.30 pm.

[Resolved 10 May 2023]

3. Questions (SO 49)

That, according to standing order 49, during the current session and unless otherwise ordered:

- (1) Questions are to take place at the following times on each sitting day:

Monday	11.00 am
Tuesday	1.30 pm
Wednesday	11.00 am
Thursday	11.00 am
Friday	11.00 am.
- (2) Whenever the House adjourns to a day and time that is later than the time appointed in paragraph (1), questions are to commence 30 minutes after the time appointed for the meeting of the House.

[Resolved 10 May 2023]

4. Sitting Calendar 2023

- (1) That, unless otherwise ordered, the days of meeting of the House in 2023 be as follows:

Budget sittings

May 9, 10, 11, 23, 24, 25, 30, 31

June 1, 20, 21, 22, 27, 28, 29

Spring sittings

August 1, 2, 3, 22, 23, 24

September 12, 13, 14, 19, 20, 21

October 10, 11, 12, 17, 18, 19

November 21, 22, 23, 28, 29, 30

December (reserve days 5, 6, 7).

- (2) That, unless otherwise ordered, for the purposes of the Budget Estimates inquiry 2023-2024, initial hearings be scheduled over 12 days from 24 October to 26 October and 31 October to 10 November 2023.
- (3) That, unless otherwise ordered, or a committee resolves that a committee activity is urgent, no committee activity may be undertaken on the following dates:
- (a) 3 July to 7 July 2023,
 - (b) 25 September to 29 September 2023, and
 - (c) 20 December to 22 December 2023.

[Resolved 10 May 2023]

Part 2 – Resolutions of continuing effect

1. Broadcast of Proceedings

Statement of principles

This resolution which provides for the broadcasting of proceedings is underpinned by the following principles:

- promoting the openness and accessibility of the NSW Parliament,
- increasing the awareness of New South Wales citizens about the Legislative Council and the Parliamentary process,
- facilitation of fair and accurate reporting by the media of parliamentary proceedings,
- respect for the privacy of members and other building occupants and visitors to Parliament House, and
- non-interference with the operations of the Parliament or the ability of Members and other building occupants to fulfil their duties.

Sound and audio-visual broadcast of proceedings of the House

- (1) That this House authorises the sound and audio-visual broadcast and rebroadcast of the proceedings of the House:
 - (a) on the Parliament's broadcast system,
 - (b) by direct signal to the media gallery in Parliament House and authorised television networks,
 - (c) by webcast on the internet,
 - (d) by live-captioning,
 - (e) as otherwise approved by the President, and
 - (f) on the Legislative Council and Parliament's social media channels.

Broadcasting

- (2) The live broadcast or rebroadcast of proceedings of the Legislative Council is authorised on the following conditions, and any other terms and conditions, not inconsistent with this paragraph, determined by the President:
 - (a) recordings and broadcasts must only be made from the sound or audio-visual signal provided by the Legislative Council,
 - (b) only footage of the House when in session may be broadcast,
 - (c) broadcasts of footage must be placed in context, used only for the purposes of fair and accurate reports of proceedings and must provide a balanced presentation of differing views,
 - (d) footage must not be used:
 - (i) for political party advertising or election campaigns,
 - (ii) for the purpose of satire or ridicule,
 - (iii) for commercial sponsorship or commercial advertising,
 - (iv) to digitally enhance or alter the presentation of proceedings,

- (e) footage of proceedings which are withdrawn may be broadcast if the withdrawal is also broadcast,
- (f) events in the galleries are not part of the proceedings and excerpts of those events must not be used, and
- (g) the President may approve filming, on request, by persons or organisations, according to the terms and conditions set out in this resolution.

Still photography

- (3) That this House authorises access to the proceedings of the Legislative Council by photographers on the following terms and conditions:
 - (a) photographers who are accredited members of the parliamentary press gallery, subject to notifying the President who will in turn advise the House, are permitted to take still photographs of proceedings while the Legislative Council is in session,
 - (b) accreditation passes are to be worn and clearly visible at all times whilst a photographer is on the parliamentary premises,
 - (c) non-accredited members of the press gallery may apply in writing to the President to take photographs of proceedings while the Legislative Council is in session, and if approved the President is to determine the conditions under which they do so,
 - (d) photographs must be used in context and only for the purposes of fair and accurate reports of proceedings,
 - (e) photographs must not be used for:
 - (i) political party advertising or election campaigns,
 - (ii) the purpose of satire or ridicule,
 - (iii) commercial sponsorship or commercial advertising,
 - (f) photographs taken with telephoto lenses or zoom lenses must not show any member closer than at 'head and shoulders' distance,
 - (g) telephoto lenses or zoom lenses must not be used to inspect members' documents or computer screens, and close-up photographs of members' documents or computer screens must not be taken,
 - (h) photographs of persons in the galleries must not be taken, with the only exception being photographs of distinguished visitors at the time they are welcomed to the House by the chair,
 - (i) photographs of disturbances by visitors or any other persons is not permitted,
 - (j) the use of flash or other sources of additional lighting and motor driven cameras is not permitted, and
 - (k) photographs are not to be digitally altered or enhanced.

Filming, broadcasting, rebroadcasting and photography of committee proceedings

- (4) That unless resolved otherwise by a committee, this House authorises:
 - (a) the filming, broadcasting and photography of members and witnesses in committee proceedings:
 - (i) by representatives of media organisations, including from around the committee meeting table,
 - (ii) by any member of the public, from the position of the audience, and
 - (b) the rebroadcasting of committee proceedings on the Legislative Council and Parliament's social media channels.

- (5) The filming and photography of committee proceedings must not:
- (a) be used to inspect or photograph members' documents or computer screens,
 - (b) be taken in an intimidating or intrusive manner,
 - (c) interfere with committee proceedings,
 - (d) be used for:
 - (i) political party advertising or election campaigns,
 - (ii) the purpose of satire or ridicule,
 - (iii) commercial sponsorship or commercial advertising, and
 - (e) be digitally enhanced or alter the presentation of proceedings.
- (6) A committee may adopt additional conditions in relation to the filming, broadcasting, rebroadcasting and photography of committee proceedings, including ordering that part of its proceedings not be filmed, broadcast or photographed.

Compliance

- (7) That:
- (a) access to proceedings for the purpose of recording and still photography is provided on the basis that the terms and conditions set out in this resolution are complied with,
 - (b) the instructions of the President or delegated representatives, must be observed at all times, and
 - (c) non-compliance with the terms and conditions of this resolution, and the instructions of the President or delegated representatives, may result in the suspension or withdrawal of accreditation.

Continuing effect

- (8) That this resolution is of continuing effect until amended or rescinded.

[Resolved—LC Minutes 18 October 2007 p. 279-281, as amended—LC Minutes 19 October 2022 p. 3747-3749]

2. Code of Conduct

- (1) That this House adopt, for the purposes of section 9 of the Independent Commission Against Corruption Act 1988, the following Code of Conduct:

PREAMBLE

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.

THE CODE

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.

PROPER EXERCISE OF POWER

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;
 - (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.

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.

4 Use of 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.

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.

OPENESS AND ACCOUNTABILITY

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;*
- *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.*

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.

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.*

UPHOLDING THE CODE

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 actions being taken by the House in relation to the Member. A minor breach of this Code may be the subject of an investigation by the Independent Complaints Officer. A substantial breach of the Code may constitute corrupt conduct for the purposes of the *Independent Commission Against Corruption Act 1988*.

10 Treatment of staff and others

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.

(2) That this resolution has continuing effect unless and until amended or rescinded by resolution of the House.

[Resolved LC Minutes 24 March 2020, pp 883-886, as amended—LC Minutes 8 June 2022 p. 3420-3421]

3. Parliamentary Ethics Advisor

The Parliamentary Ethics Adviser shall have the following functions.

Advice to Members of Parliament

- (1)
 - (a) The Parliamentary Ethics Adviser is to advise any member of Parliament, when asked to do so by that member, on ethical issues concerning the exercise of his or her role as a member of Parliament (including the use of entitlements and potential conflicts of interest).
 - (b) The Parliamentary Ethics Adviser is to be guided in giving this advice by any Code of Conduct or other guidelines adopted by the House (whether pursuant to the Independent Commission Against Corruption Act or otherwise).
 - (c) The Parliamentary Ethics Adviser's role does not include the giving of legal advice.

Advice to Ministers on post-separation employment

- (2) The Parliamentary Ethics Adviser must on request by a Minister provide written advice to the Minister as to whether or not the Adviser is of the opinion that the Minister's:
 - (a) acceptance of an offer of post-separation employment or engagement which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office); or
 - (b) decision to proceed, after the Minister leaves office, with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office),

would give rise to a reasonable concern that:

- (c) the Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or
 - (d) the Minister might make improper use of confidential information to which he or she has access while in office.
- (3) The Adviser must on request by a person who has ceased to hold ministerial office within the previous 18 months ("the former Minister") provide written advice to the former Minister as to whether or not the Adviser is of the opinion that the former Minister's:
- (a) acceptance of an offer of employment or engagement which relates to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office; or
 - (b) decision to proceed with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relate to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office,

would give rise to a reasonable concern that:

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

Keeping of records

- (7) The Parliamentary Ethics Adviser shall be required to keep records of advice given and the factual information upon which it is based.
- (8) Subject to clause 6, the Parliamentary Ethics Adviser shall be under a duty to maintain the confidentiality of information provided to him in exercising his function and any advice given, but the Parliamentary Ethics Adviser may make advice public if the person who requested the advice gives permission for it to be made public.
- (9) This House shall only call for the production of records of the Parliamentary Ethics Adviser if the person to which the records relate has:

- (a) in the case of advice given under clause 1(a), sought to rely on the advice of the Parliamentary Ethics Adviser; or
- (b) given permission for the records to be produced to the House.

Annual meeting with committees

- (10) The Parliamentary Ethics Adviser is to meet annually with the Standing Committee of each House designated for the purposes of Part 7A of the Independent Commission Against Corruption Act.

Report to Parliament

- (11) (a) The Parliamentary Ethics Adviser shall be required to report to the Parliament annually on the number of ethical matters raised with him, the number of members who sought his advice, the amount of time spent in the course of his duties and the number of times advice was given.
- (b) The Parliamentary Ethics Adviser may report to the Parliament from time to time on any problems arising from the determinations of the Parliamentary Remuneration Tribunal that have given rise to requests for ethics advice and proposals to address these problems.

[Resolved and message sent to Assembly—LC Minutes 28 June 2007 p. 208-210]

Appointment of Parliamentary Ethics Advisor

Message received from the Assembly 17 June 2014 p. 2576-2579. Resolved and message sent to Assembly—18 June 2014 p. 2597-2600

That this House directs the President to join with the Speaker to make arrangements for the appointment of Mr John Evans PSM as Parliamentary Ethics Adviser, on a part-time basis, on such terms and conditions as may be agreed from the period beginning 1 July 2014.

4. Rules for visitors in the galleries

- (1) That the following rules apply to visitors in the President's Gallery and visitors' galleries:
 - (1) No audible conversations must take place.
 - (2) Applause, jeering or any other gestures responding to the proceedings are not permitted.
 - (3) Visitors to the galleries are not to converse with members in the chamber.
 - (4) Visitors are not to trespass on the chamber floor or to impede the access of members entering or leaving the chamber.
 - (5) The use of mobile telephones, radios, iPods and other electronic equipment that creates sound in the chamber is not permitted in the galleries.
 - (6) Food and drink are not permitted in the chamber at any time.
 - (7) Protests or other actions that interrupt the proceedings of the House are not permitted and banners, posters and clothing with messages that may be used to protest are not to be worn or taken into the galleries.
 - (8) Photographs may not be taken unless permission has been granted by the President.
 - (9) Visitors in the President's Gallery when the House is sitting are subject to the same dress code as applies to members.
 - (10) Visitors must comply with instructions given by chamber and support staff or other parliamentary staff.
- (2) That this resolution have continuing effect until amended or rescinded.

[Resolved—LC Minutes 10 November 2009 p. 1487-1488]

5. Records of the House

- (1) That this House notes that the State Records Act 1998 provides for exempt public offices, including the Houses of Parliament, to enter into agreements with the State Records Authority for the application, with or without specified modifications, of any of the provisions of the Act to their records.
- (2) That this House accordingly authorises the Clerk to enter into a memorandum of agreement with the State Records Authority for the transfer of records of the Legislative Council to the care of, but not control of, the State Records Authority.
- (3) That, under standing order 50, this House authorises the Clerk to transfer, from time to time as occasion may require, to the care of, but not control of, the State Records Authority the records of the Legislative Council not currently in use.¹
- (4) That any documents transferred to the care of the State Records Authority be subject to access orders in terms of the spirit of Part 6 of the State Records Act 1998, as follows:
 - (a) documents tabled in the House and authorised to be made public are to be open to public access,
 - (b) documents tabled in the House and not made public are to remain closed to public access for 30 years from the date of tabling, after which the Clerk may make a direction that the documents be open to public access, and
 - (c) documents which have not been published by authority of the House or a committee, such as in camera evidence and confidential submissions, are to remain closed to public access unless authorised by resolution of the House.
- (5) That this resolution have continuing effect until amended or rescinded.

[Resolved—LC Minutes 23 November 2006 p. 432]

6. Smoke-Free Parliament

That from 1 January 1994 the enclosed areas of the precincts of the Parliament shall be a smoke-free environment, other than areas designated by the Presiding Officers, having regard to the provisions of the Occupational Health and Safety Act 1983 and any relevant regulations and codes of practice made under that Act.

[Resolved and message sent to Assembly—LC Minutes 9 November 1993 p. 363-364]

¹ Now standing order 51, Standing Rules and Orders, February 2023.

7. Message Stick

That, during the present session and unless otherwise ordered:

- (a) the message stick presented to the New South Wales Parliament on 11 October 2017, during the ceremony to mark the introduction of the Aboriginal Languages Bill 2017 in the Legislative Council, be placed on permanent display in the President's Gallery,
- (b) the House authorise the placement of the message stick on the Table during proceedings on opening of Parliament, or during other special occasions at the discretion of the President, and
- (c) on those occasions set out in paragraph (b), an Aboriginal Language group, selected on a rotational basis from a list of Aboriginal Language groups maintained by the President and the Aboriginal Languages Establishment Advisory Group and, once established, the Aboriginal Languages Trust, nominate an elder who will be invited to:
 - (i) remove the message stick from the display cabinet,
 - (ii) briefly address members from the Bar of the House in their language,
 - (iii) hand the message stick to the Usher of the Black Rod for placement on the Table.

[Resolved—LC Minutes 21 June 2018 p. 2804-2805]

8. Display of Aboriginal Flag in Legislative Council Chamber

- 1. That this House notes that:
 - (a) New South Wales is the country's most populated state, with the oldest parliament and a proud history of inclusion,
 - (b) the Australian Aboriginal people represent forty thousand years of history, and are a people that are a fundamental part of Australian society,
 - (c) Parliaments across the nation proudly display the Aboriginal flags in their buildings and the New South Wales Legislative Assembly is no exception, and
 - (d) the Legislative Council, however, does not display the Aboriginal flag.
- 2. That this House:
 - (a) notes that the Legislative Council does not display within it the Aboriginal flag, and
 - (b) resolves to rectify this anomaly by displaying the Aboriginal flag in the chamber of the Legislative Council.

[Resolved—LC Minutes 22 November 2012 p. 1425-1426]

9. Procedural Fairness for Inquiry Participants

1. That the House adopts the following procedures to provide procedural fairness for inquiry participants:
 1. **Inviting and summoning witnesses**
A witness will be invited to give evidence at a hearing unless the committee decides that a summons is warranted.
 2. **Information for witnesses**
A witness will normally be given reasonable notice of their hearing and will be provided with the inquiry terms of reference, a list of committee members and a copy of these procedures.
 3. **Opportunity to make a submission before a hearing**
A witness will normally be given the opportunity to make a submission before their hearing.
 4. **Opportunity to request a private (*in camera*) hearing**
A witness may request, before or during their hearing, that some or all of their evidence be heard in private (*in camera*). The committee will consider this request and if it declines, will advise the witness of the reasons why.
 5. **Publication of evidence taken in private (*in camera*)**
Prior to their private (*in camera*) hearing, a witness will be informed that the committee and the Legislative Council have the power to publish some or all of the evidence given. If the committee intends to publish, it will normally consult the witness, advise them of the outcome, and give reasonable notice of when the evidence will be published.
 6. **Attendance with a legal adviser**
With the prior agreement of the committee, a witness may be accompanied by and have reasonable opportunity to consult a legal adviser during their hearing. The legal adviser cannot participate in the hearing and will not be sworn in or give evidence, unless the committee decides otherwise.
 7. **Attendance with a support person**
With the prior agreement of the committee, a witness may be accompanied at their hearing by a support person. The support person will not be sworn in or give evidence, unless the committee decides otherwise.
 8. **Witnesses to be sworn**
At the start of their hearing a witness will, unless the committee decides otherwise, take an oath or affirmation to tell the truth, and the provisions of the *Parliamentary Evidence Act 1901* will then apply.
 9. **Chair to ensure relevance of questions**
A committee chair will ensure that all questions put to witnesses are relevant to the inquiry.
 10. **Questions to public officials**
Public officials will not be asked to give opinions on matters of policy, and will be given reasonable opportunity to refer questions to more senior officials or to a minister.
 11. **Questions on notice**
A witness may request to take a question on notice and provide the answer in writing at a later date to be determined by the committee.
 12. **Objections to answering questions**
Where a witness objects to answering a question, they will be invited to state the grounds for their objection. If a member seeks to press the question, the committee will consider whether to insist on an answer, having regard to the grounds for the objection, the relevance of the question to the inquiry terms of reference, and the necessity to the inquiry of the information sought. If the committee decides that it requires an answer, it will inform the witness of the reasons why and may consider allowing the witness to answer the question on notice or in private (*in camera*).

Witness appearing by invitation

- (a) If a witness who appears by invitation continues to refuse to answer the question, the committee may consider summoning the witness to reappear later, and will advise the witness that as they will be under oath and so subject to section 11 of the *Parliamentary Evidence Act 1901*, they may be compelled to answer the question.

Witness appearing under summons

- (b) The continued refusal by a witness, having been summoned, to answer the question while under oath, may constitute a contempt of parliament under the *Parliamentary Evidence Act 1901*, and the committee may report the matter to the Legislative Council.

13. Evidence that may seriously damage the reputation of a third party

Evidence about to be given

- (a) Where a committee anticipates that evidence about to be given may seriously damage the reputation of a person or body, the committee may consider hearing the evidence in private (*in camera*).

Evidence that has been given

- (b) Where a witness gives evidence in public that may seriously damage the reputation of a person or body, the committee may consider keeping some or all of the evidence confidential.

Opportunity to respond

- (c) Where a witness gives evidence that may seriously damage the reputation of a person or body, the committee may give the person or body reasonable access to the evidence, and the opportunity to respond in writing or at a hearing.

14. Evidence that places a person at risk of serious harm

Where a witness gives evidence that places a person at risk of serious harm, the committee will immediately consider expunging the information from the transcript of evidence.

15. Tendering documents

A witness may tender documents during their hearing. The committee will decide whether to accept and to publish such documents.

16. Inviting and ordering the production of documents

A witness will be invited to produce documents unless the committee decides that an order to produce the documents is warranted.

17. Requests for confidentiality

A person or body may request that documents provided to a committee be kept confidential in part or in full. The committee will consider the request and if it declines, will advise the person or body of the reasons why, and give reasonable notice of when the documents will be published.

18. Transcripts

A witness will be given the opportunity to correct transcription errors in their transcript of evidence. Amendments to or clarifications of evidence may be requested in writing.

19. Treatment of witnesses

Witnesses will be treated with courtesy at all times.

20. Improper treatment of inquiry participants

Where a committee has reason to believe that a person has been improperly influenced in respect of the evidence they may give to a committee, or has been penalised, injured or threatened in respect of evidence given, the committee will take all reasonable steps to ascertain the facts of the matter. If the committee is satisfied that such action may have occurred, the committee may report the matter to the Legislative Council.

21. **Inquiry participants before the Privileges Committee**

Where the Privileges Committee inquiries into a matter which may involve an allegation of contempt, the committee may adopt additional procedures as it sees fit in order to ensure procedural fairness and the protection of inquiry participants.

2. That this resolution have continuing effect until amended or rescinded.

[Resolved—LC Minutes 25 October 2018 p. 3138-3140]

10. Parliamentary procurement and modern slavery

That, commencing from the 2022-2023 financial year starting 1 July 2022:

- (1) The Department of Parliamentary Services of the Parliament of New South Wales must take reasonable steps to ensure goods and services procured by and for the Houses of Parliament are not the product of modern slavery.
- (2) The Chief Executive, Department of Parliamentary Services must, within 5 months of the end of each financial year, prepare a report (an annual report) that contains the following:
 - (a) a statement of the action taken by the Department of Parliamentary Services in relation to any issue raised by the Anti-slavery Commissioner during the year concerning the operations of the Department and identified by the Commissioner as being a significant issue, and
 - (b) a statement of steps taken to ensure goods and services procured by and for the Department during the year were not the product of modern slavery.
- (3) The annual report prepared under this resolution must be:
 - (a) presented to the Presiding Officer of each House of Parliament,
 - (b) tabled in each House of Parliament by the Presiding Officer within 14 sitting days of receipt of the annual report, and
 - (c) forwarded to the Anti-slavery Commissioner.
- (4) That this resolution have continuing effect until amended or rescinded.

[Resolved—LC Minutes 25 November 2021 p. 2899-2900]

11. Independent Complaints Officer

- (1) That this House adopt the following resolution to establish an Independent Complaints Officer:

(1) Establishment of position

That this House directs the President to join with the Speaker to make arrangements for the establishment of the position of an Independent Complaints Officer to expeditiously and confidentially deal with low level, minor misconduct matters so as to protect the institution of Parliament, all members and staff.

(2) Functions of position

The Independent Complaints Officer shall have the following functions:

- (a) Receive and investigate complaints

The Independent Complaints Officer may receive and investigate complaints confidentially in relation to alleged breaches of the members' code of conduct, not related to conduct in proceedings of the Legislative Council or Legislative Assembly or their committees, including:

- (i) misuse of allowances and entitlements,
- (ii) other less serious misconduct matters falling short of corrupt conduct,
- (iii) allegations of bullying, harassment and other types of inappropriate behaviour,
- (iv) minor breaches of the pecuniary interests disclosure scheme.

In regard to bullying and harassment, consideration of complaints will take note of members' legal obligations including the:

- *Members of Parliament Staff Act 2013;*
- *Anti-Discrimination Act 1977; and*
- *Work Health and Safety Act 2011*

- (b) Monitoring Code of Conduct for Members

The Independent Complaints Officer shall monitor the operation of the Code of Conduct for Members, the Constitution (Disclosures by Members) Regulation 1983 and the members' entitlements system, and provide advice about reform to the Privileges Committee as required.

- (c) Educational presentations

The Independent Complaints Officer shall assist the Privileges Committee, Parliamentary Ethics Adviser and the Clerk as requested in relation to the education of members about their obligations under the Code of Conduct for Members and the Constitution (Disclosures by Members) Regulation 1983.

(3) Amendment of the Code of Conduct for Members

The Members' Code of Conduct is amended by

- (a) the addition of the following paragraph:

"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."

- (b) the insertion into the second paragraph of clause 9 the following words:

"A minor breach of this Code may be the subject of an investigation by the Independent Complaints Officer"

(4) Term of appointment

- (a) Appointment by Presiding Officers

The Presiding Officers shall appoint an Independent Complaints Officer within three months of the mid-term point of each Parliament, or whenever the position becomes vacant, for the remainder of that Parliament and until the mid-term point of the following Parliament, on such terms and conditions as may be agreed upon with the Presiding Officers, not inconsistent with this resolution. The proposed appointment must have the support of the Privileges Committee in each House. An appointment may be extended for a period of up to six months so as to ensure there is no period in which there is no person holding the position.

- (b) Contract with Clerks of both Houses – Independent Complaints Officer

The appointment of the Independent Complaints Officer is to be confirmed by the Clerks of both Houses entering into a contract of employment with the appointee.

(5) Complaints investigations

- (a) Protocol

The Independent Complaints Officer shall, within three months of his or her appointment, develop a protocol to be approved by the Privileges Committee and tabled in the House by the committee chair, outlining how complaints may be received, the manner and method by which complaints will be assessed and investigated, the definition of low level, minor misconduct, and arrangements for the referral notification of matters between the Independent Complaints Officer and the Independent Commission Against Corruption and other relevant bodies (including the most appropriate agencies in relation to bullying and harassment matters), subject to relevant legislation (including section 122 of the Independent Commission Against Corruption Act).

- (b) Standing

This protocol shall include definitions of standing such that:

- only current members of the parliamentary community, that is Members of the NSW Parliament, those who work for Members of the Parliament of NSW in their capacity as Members or Ministers, those who work for the parliamentary departments, contractors or subcontractors, volunteers, interns and trainees, have standing to lodge complaints
- that an individual may make a complaint up until 21 days following termination from their employment, but not have standing after that date if not part of the parliamentary community
- complaints must be lodged within two years of the incident alleged to have occurred, unless this is not fair or reasonable to a complainant or member
- no complaint may be considered which is alleged to have occurred prior to the passing of this resolution.

- (c) Confidentiality

Members of the parliamentary community who are not Members of Parliament and who make complaints shall be required to maintain confidentiality concerning complaints and investigations. Others involved in any complaints investigations, for example witnesses, shall be required to maintain confidentiality concerning complaints and investigations.

There shall be an expectation that, except in extraordinary circumstances, Members of Parliament will maintain confidentiality about complaints and investigations. However, nothing about this expectation affects parliamentary privilege and, in particular, the parliamentary privilege of freedom of speech.

(d) Protocol with the Independent Commission Against Corruption

Where the Independent Complaints Officer has concerns that a complaint may potentially involve corrupt conduct, he or she should cease the complaint investigation and invite the complainant to raise the matter with the Independent Commission Against Corruption.

The Independent Complaints Officer in determining to draw back from the investigation of a complaint may make a notification to the Independent Commission Against Corruption but should not hand over papers and records obtained under the Independent Complaints Officer system unless under legal compulsion.

The Independent Complaints Officer is not required to notify the Independent Commission Against Corruption when he or she begins an investigation.

(e) Investigatory report to the House

Where the Independent Complaints Officer finds that there has been a misuse of an allowance or entitlement, the Independent Complaints Officer may recommend repayment of funds misused. Where the Independent Complaints Officer finds that a member has otherwise breached the Members' Code of Conduct the Independent Complaints Officer may recommend corrective action.

Subject to (f) below, the Independent Complaints Officer will make a report if the member does not accept the recommendation and, in the case of bullying, harassment and inappropriate behaviour matters, only where the complainant consents to the making of the report. This report will be presented to the Privileges Committee. The Committee will consider whether to adopt the recommendations of the Independent Complaints Officer and whether to report to the House.

(f) Minor breach

Where the Independent Complaints Officer investigates a matter and finds that a member has breached the Code or Regulations but in the Independent Complaints Officer's opinion the breach is minor or inadvertent and the member has taken action to rectify the breach – including the making of appropriate financial reimbursement – the Independent Complaints Officer shall advise the member in writing of the finding, and the complainant in writing of the finding and the action taken by the member. The Independent Complaints Officer shall briefly report his or her findings and the rectification action taken by the member on a confidential basis to the Privileges Committee. However, if the matter relates to bullying, harassment or inappropriate behaviour, the report must only be made to the relevant Privileges Committee with the complainant's consent. No report to a House is required in this circumstance.

(g) Declines to investigate

If the Independent Complaints Officer receives a complaint but upon assessment declines to investigate the matter, or upon investigation finds no evidence or insufficient evidence to substantiate a breach of the Code of Conduct for Members or the Constitution (Disclosures by Members) Regulation 1983, the Independent Complaints Officer shall advise in writing the member and the complainant of the decision. The Independent Complaints Officer shall also briefly report the decision to the relevant Privileges Committee on a confidential basis. However, if the complaint relates to bullying, harassment or inappropriate behaviour, the decision must only be reported to the Privileges Committee with the complainant's consent. No report to a House is required in this circumstance.

(h) Breaches where the Member has failed or declined to take rectification action – reports and appeal rights

Where, after investigating a complaint, the Independent Complaints Officer finds that a Member has breached the Code of Conduct for Members or the Constitution (Disclosures by Members) Regulation 1983, or has engaged in bullying, harassment or inappropriate behaviour and the Member has failed to undertake the stipulated rectification action or declined to do so pending appeal:

- the Independent Complaints Officer shall report his or her findings and conclusions to the Privileges Committee on a confidential basis, including recommendations as to the sanctions, if any, that should be imposed by the House. However, if the matter relates to bullying, harassment or inappropriate behaviour, the report to the Committee must only be made with the complainant's consent.
- the Member in question shall also have the right to lodge an appeal against the Independent Complaints Officer's findings, conclusions and recommendations with the Privileges Committee where they have been so reported to the Committee.

Further, after receiving:

- an investigatory report from the Independent Complaints Officer about a breach for which the Member has failed to take the stipulated rectification action, and/or;
- an appeal from the Member in question concerning the Independent Complaints Officer's findings, conclusions and recommendations;

the Privileges Committee shall:

- form its own conclusions
- have the power to report its conclusions and recommendations – including as regards appropriate sanctions – to the House
- have the power to decide that a report to the House and/or sanctions are not warranted in a particular case e.g. where the Committee disagrees with the Independent Complaints Officer's findings.

(i) Expert assistance

The Independent Complaints Officer shall be able to engage the services of a person or persons to assist with or perform services for the Independent Complaints Officer, and in the conduct of an investigation, within budget.

(6) Powers of the Independent Complaints Officer

The Independent Complaints Officer shall have power to request the production of relevant documents and other records from members and officers of the Parliament.

Members, their staff and parliamentary officers are required to reasonably cooperate at all stages with the Independent Complaints Officer's inquiries including giving a full, truthful and prompt account of the matters giving rise to a complaint.

The Independent Complaints Officer may report to the Privileges Committee any failure to comply with a request, and the committee will recommend whether the matter requires the determination of the matter by the House.

(7) Keeping of records

The Independent Complaints Officer shall be required to keep records of advice given and the factual information upon which it is based, complaints received and investigations. The records of the Independent Complaints Officer are to be regarded as records of the House and are not to be made public without the prior approval of the Independent Complaints Officer and resolution of the House, except for the notification of information between the Independent Complaints Officer and other relevant authorities in accordance with the protocol to be developed in accordance with clause 5 (a), or where the member requests that the records be made public.

A member requesting the records be made public should present the records to the Clerk, to be tabled in the House at the next sitting. During an extended break in sittings the Privileges Committee is empowered

to publish records of the Independent Complaints Officer, on the recommendation of the Officer that expeditious publication is required.

(8) Reports to Parliament

In addition to reports on investigations, the Independent Complaints Officer shall provide to the committee chair to table in the House quarterly reports that contain general, de-identified information about matters dealt with under the Independent Compliance Officer system including:

- the number and types of complaints received
- the number of investigations undertaken
- the number of matters found by an Independent Complaints Officer to be unsustainable
- the number of matters involving breaches that were dealt with via the rectification procedure, and the rectification action that was taken for these matters, such as repayments
- the number of matters an Independent Complaints Officer found to involve breaches for which a Member failed to undertake the required rectification action, that were reported to the Privileges Committee but not to the House
- the number of matters an Independent Complaints Officer found to involve breaches for which a Member failed to undertake the required rectification action, that were reported to the Privileges Committee and to the House
- the results of matters reported to the House including the type of sanctions imposed.

(9) Annual meeting with relevant committees

The Independent Complaints Officer is to meet annually with the Privileges Committee of the House.

(10) Review of the Independent Complaints Officer System

The privileges committees of both Houses are required to review the Independent Complaints Officer system within 12 months of the establishment of the Independent Complaints Officer position, in consultation with key stakeholders. The committee must examine how the system is operating in practice and whether any changes are needed and in particular:

- the confidentiality provisions applying in respect of complaints and investigations under the system,
- the timeliness of complaints assessments and investigations conducted under the system, and
- the provisions applying with respect to standing for complaints and retrospectivity under the system.

Following the initial review the committee is also required to review the Independent Complaints Officer system once every parliamentary term, in consultation with key stakeholders, to examine how it is operating in practice and whether any changes are needed.

- (2) That this resolution have continuing effect until amended or rescinded.

[Resolved and message sent to Assembly—LC Minutes 22 March 2022 p. 3039-3035, amended and message sent to Assembly—LC Minutes 8 June 2022 p. 3420-3421]

The President informed the House that Ms Rose Webb has been appointed as the Parliament's inaugural Independent Complaints Officer effective 11 August 2022—11 August 2022 p. 3587.

Mr Primrose, according to the resolution of the House establishing the Independent Complaints Officer, tabled the Independent Complaints Officer Investigations Protocol, dated November 2022. Ordered, on motion of Mr Primrose, that the document be published—17 November 2022 p. 3953. The document can be accessed via the following link [Independent Complaints Officer Protocols](#).

Part 3 – Officeholders and ministerial representation

1. Officeholders

President	The Honourable Benjamin Franklin—9 May 2023, p. 8
Deputy President and Chair of Committees	The Honourable Rod Roberts—9 May 2023, p. 11
Assistant President	The Honourable Peter Primrose—9 May 2023, p. 12
Leader of the Government	The Honourable Penny Sharpe—9 May 2023, p. 16
Deputy Leader of the Government	The Honourable John Graham—9 May 2023, p. 16
Parliamentary Secretaries	The Honourable Mark Buttigieg—9 May 2023, p. 15 The Honourable Anthony D'Adam—9 May 2023, p. 15
Government Whip	The Honourable Bob Nanva—9 May 2023, p. 16
Deputy Government Whip	The Honourable Cameron Murphy—9 May 2023, p. 16
Leader of the Opposition	The Honourable Damien Tudehope—9 May 2023, p. 18
Deputy Leader of the Opposition	The Honourable Sarah Mitchell—9 May 2023, p. 18
Deputy Leader of the Liberal Party in the Legislative Council	The Honourable Natalie Ward—23 May 2023, p. 95
Opposition Whip	The Honourable Chris Rath—9 May 2023, p. 18
Deputy Opposition Whip	The Honourable Wes Fang—9 May 2023, p. 18
Temporary Chairs of Committees	Ms Abigail Boyd—23 May 2023, p. 90 The Honourable Emma Hurst—23 May 2023, p. 90 The Honourable Sarah Kaine—23 May 2023, p. 90

2. Council Ministers represented in the Assembly

Penny Sharpe	Minister for Climate Change Minister for Energy Minister for the Environment Minister for Heritage	Jihad Dib
John Graham	Special Minister of State Minister for Roads Minister for the Arts Minister for Music and the Night-time Economy Minister for Jobs and Tourism	Jo Haylen
Daniel Mookhey	Treasurer	Paul Scully
Tara Moriarty	Minister for Agriculture Minister for Regional New South Wales Minister for Western New South Wales	Yasmin Catley
Courtney Houssos	Minister for Finance Minister for Natural Resources	Michael Daley
Rose Jackson	Minister for Water Minister for Housing Minister for Homelessness Minister for Mental Health Minister for Youth Minister for the North Coast	Ryan Park

3. Assembly Ministers represented in the Council

Chris Minns	Premier	Penny Sharpe
Paul Scully	Minister for Planning and Public Spaces	
Kate Washington	Minister for Families and Communities Minister for Disability Inclusion	
Jo Haylen	Minister for Transport	John Graham
Jihad Dib	Minister for Customer Service and Digital Government Minister for Emergency Services Minister for Youth Justice	
David Harris	Minister for Aboriginal Affairs and Treaty Minister for Gaming and Racing Minister for Veterans Minister for Medical Research Minister for the Central Coast	
Jenny Aitchison	Minister for Regional Transport and Roads	
Sophie Cotsis	Minister for Industrial Relations Minister for Work Health and Safety	
Michael Daley	Attorney General	Daniel Mookhey
Stephen Kamper	Minister for Small Business Minister for Lands and Property Minister for Multiculturalism Minister for Sport	
Prue Car	Deputy Premier Minister for Education and Early Learning Minister for Western Sydney	
Ryan Park	Minister for Health Minister for Regional Health Minister for the Illawarra and the South Coast	Courtney Houssos
Anoulack Chanthivong	Minister for Better Regulation and Fair Trading Minister for Industry and Trade Minister for Innovation, Science and Technology Minister for Building Minister for Corrections	
Timothy Crakanthorp	Minister for Skills, TAFE and Tertiary Education Minister for the Hunter	
Jodie Harrison	Minister for Women Minister for Seniors Minister for the Prevention of Domestic Violence and Sexual Assault	Rose Jackson
Ron Hoenig	Minister for Local Government	Tara Moriarty
Yasmin Catley	Minister for Police and Counter-terrorism	