

PREMIER – QUESTIONS ON NOTICE – BUDGET ESTIMATES 2020-21

QUESTION –

The Hon. MARK LATHAM: Premier, during your time in that office on what occasions have you been advised by your department of your obligations under section 11 (2) of the ICAC Act to report any reasonable suspicion of corrupt conduct?

Ms GLADYS BEREJIKLIAN: I cannot tell you how many times I have. I will have to take that on notice.

ANSWER:

The Department of Premier and Cabinet has advised me of the requirements of section 11(2) of the *Independent Commission Against Corruption Act 1988* (NSW).

QUESTION –

The Hon. JOHN GRAHAM: Thank you, Mr Reardon. Premier, I might just return to you. At any point did Daryl Maguire discuss this project with you, the second stage of the Wagga Wagga regional conservatorium of music?

ANSWER:

I refer to the answer that I gave during the hearing.

QUESTION –

Ms GLADYS BEREJIKLIAN: No. As the Premier who was campaigning in the by-election where the announcement was made is different from being the approver or the allocator. But I am more than happy to take that on notice.

ANSWER:

I understand Regional NSW has previously advised the Public Accountability Committee that a signed letter from the NSW Treasurer approved a reservation of up to \$20 million from the Regional Communities Development Fund.

QUESTION –

How many Ministers in your original 2019 Cabinet were designated as senior Ministers?

ANSWER:

Seven.

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QUESTION –

Ms ABIGAIL BOYD: Sorry, with respect, can we just get to the number? How many were senior Ministers for the purposes of the pay scale?

Mr REARDON: The Premier has just outlined what a cluster Minister was, which is the naming convention that I would give you. That is what I was trying to provide you.

Ms GLADYS BEREJIKLIAN: I think she means in terms of remuneration, which we might need to—

Ms ABIGAIL BOYD: I mean in terms of remuneration.

Ms GLADYS BEREJIKLIAN: Yes, I think there are different—we will take that on notice. I do not know the number off the top of my head.

Ms ABIGAIL BOYD: You do not know how many Ministers are senior Ministers?

Ms GLADYS BEREJIKLIAN: Well, no, there is a classification in relation to remuneration, as far as I understand. There is a distinction, which we will take on notice.

ANSWER:

There are currently eight Ministers designated as senior Ministers.

QUESTION –

Ms ABIGAIL BOYD: Just in the interests of time—Premier, is there a set of guidelines or other criteria for appointing Ministers as senior Ministers?

Ms GLADYS BEREJIKLIAN: I am sure in terms of remuneration there is. I will ask the secretary to take that on notice.

ANSWER:

As Premier, I may designate which Ministers will be Senior Ministers as per the *Parliamentary Remuneration Act 1989* (NSW). The Act does not specify any criteria or guidelines to be applied in determining which Ministers will be Senior Ministers.

QUESTION –

Ms ABIGAIL BOYD: Perhaps I can remind you. Minister Tudehope was appointed as Leader of the Government in the Legislative Council when Minister Harwin stepped aside temporarily. He received an increase of \$35,531 per year as a result of that position, but then when Minister Harwin came back, Minister Tudehope would have had his pay reduced by \$35,531. Instead, I understand you made him a senior Minister at that point so that then he only had a pay cut of half of what he was receiving. Is that correct?

Ms GLADYS BEREJIKLIAN: I would assume the reason for that determination—I am happy to take it on notice.

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ANSWER:

I refer you to my answer above.

QUESTION –

The Hon. ROBERT BORSAK: Did Mr Maguire advise you that he had received a secret summons from ICAC to appear as a witness?

Ms GLADYS BEREJIKLIAN: I recollect that I was advised in the appropriate ways. I am happy to take that on notice because I cannot remember.

The Hon. ROBERT BORSAK: Specifically relating to Mr Maguire, did he advise you? Ms GLADYS BEREJIKLIAN: Not to my recollection, but I will take that on notice.

ANSWER:

I have nothing further to add to what I said at the hearing.

QUESTION –

The Hon. ROBERT BORSAK: Mr Maguire did not inform you that he was applying for legal assistance from the Government?

Ms GLADYS BEREJIKLIAN: Again, I will take that on notice, but not to my recollection, no. Again, that is not to say—I have no recollection of that, no.

ANSWER:

I have nothing further to add to what I said at the hearing.

QUESTION –

The Hon. JOHN GRAHAM: I will turn to a second matter, that is, the question of the route of the Outer Sydney Orbital. I turn in particular to the period where there was some controversy about the route. There was a series of meetings, which some of your Ministers have confirmed, that were held between April and 22 June in your office. I think you chaired those meetings to discuss with local members of Parliament the significant controversy over the route. Do you recall those meetings?

Ms GLADYS BEREJIKLIAN: I do not recall the specific content of those meetings. It is reassuring that the responsible Minister was there at those meetings. It is not unusual to have members of Parliament talk to Government Ministers about their concerns for particular routes of particular road projects.

The Hon. JOHN GRAHAM: Will you take on notice and check your diary about who was present at those meetings and when they occurred? How many meetings there were?

Ms GLADYS BEREJIKLIAN: Certainly.

ANSWER:

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I had a number of informal meetings during that period with Members of Parliament, particularly the then Members for Camden and Wollondilly, in relation to the Outer Sydney Orbital. The then Member for Wagga Wagga was not present at any of them.

QUESTION –

Ms CATE FAEHRMANN: The State Infrastructure Strategy did not say Wyangala Dam and Dungowan Dam are part of that strategy, did it?

Mr DRAPER: I can check that on notice, but I think you are right on that.

ANSWER:

Answer from Mr Draper:

The 2018 State Infrastructure Strategy (SIS) did not make specific investment recommendations for either the Wyangala or Dungowan Dams, which are located in the Lachlan and Namoi River catchments respectively.

QUESTION –

The Hon. MARK LATHAM: No, that is just a different way of not answering the question, isn't it, which is pretty hopeless. But anyway, let's move on to the next issue. Premier, why did you take direct ministerial control of the Greater Sydney Commission in early 2018 when the DPIE secretary, Carolyn McNally, said that you are likely to become more embroiled in "controversial LEPs (Local Environmental Plans) within the Greater Sydney region". Premier, in October last year you told ICAC that you kept Daryl Maguire's land development interests at arms-length. If this was true, why did you take control of the agency—the Greater Sydney Commission—which was fundamental in advancing his financial interests through Charlie Demian, Joe Alha, William Leong, Country Garden, Louise Waterhouse and United World Enterprises?

Ms GLADYS BEREJIKLIAN: Mr Latham, I am very glad that you have asked me this question because it allows me to put on the record, as I have done before, very important facts. The reason the Greater Sydney Commission—and I will ask my secretary to also outline what he knows because this is an important question of fact. The reason why the Greater Sydney Commission came into the Premier's cluster is because the Greater Sydney Commission asked for that to occur. I received advice from the Greater Sydney Commission and from my secretary that that was in the best interest of the Government for that to occur. The department of planning understandably did not like that because they wanted it to remain within their responsibility, but that was the whole point: that the Greater Sydney Commission should be above reproach and should provide robust and independent advice to government, which is what I am proud they do. It was the Greater Sydney Commission that determined the three cities strategy around the CBD, Parramatta and the new airport city. It was at the Greater Sydney Commission's request that that occurred. Mrs Turnbull has actually said that on the record—she was there at the time. And I will ask my secretary to put on the record—

ANSWER:

As I have stated a number of times before on the public record, the Greater Sydney Commission proposed it be moved in to the Department of Premier and Cabinet cluster to enable it to drive

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whole of Government implementation of the Greater Sydney Regional Plan – *A Metropolis of Three Cities*.

The DPC Secretary supported this move.

QUESTION –

Ms GLADYS BEREJKLIAN: I understand that and I apologise to Hansard in advance. But can I say this: Just like Infrastructure NSW, the Greater Sydney Commission is a body that provides independent and robust advice to government, independently. I would ask, because it is relevant, because I have just said the reason why they came within the Premier's cluster is, firstly, they asked for it and, secondly, that was the advice I received from my secretary and I would like him to be able to respond given that it is in direct response to the question you asked, which is fundamental to what you are putting.

Mr REARDON: Thanks, Premier.

The Hon. JOHN GRAHAM: I would invite Mr Reardon to put that answer on notice.

ANSWER:

Answer from Mr Reardon:

After the NSW Government adopted A Metropolis of Three Cities – the Greater Sydney Region Plan in 2018, the then Chief Commissioner requested that the Greater Sydney Commission (GSC) transfer from the Planning and Environment Cluster to the Premier and Cabinet cluster to enable it to drive cross-Government implementation of the plan.

Locating the GSC in the DPC cluster brought it in line with other independent, statutory bodies that do cross-Government work, such as Infrastructure NSW and the Public Service Commission.

Further, co-locating the GSC and Infrastructure NSW in DPC allowed for greater collaboration between the strategic land use functions of the GSC and the infrastructure prioritisation and planning function of Infrastructure NSW.

A proposal for the GSC to move to DPC was supported by the DPC Secretary and approved by the Premier in mid-2018.

The legislation pertaining to the GSC was also amended in late 2018 to transfer statutory functions relating to rezoning and development proposals to the Department of Planning, Industry and Environment. This means that the GSC has no statutory powers to rezone land or determine development applications.

QUESTION –

The Hon. DANIEL MOOKHEY: Thank you. I appreciate that. And I do appreciate that context as well. Auditor-General, do you mind turning to page 31? You identify a set of issues to do with the way icare has administered the Nominal Insurer. You say in the paragraph that I have highlighted: icare's allocation methodology resulted in the Workers' Compensation Nominal Insurer ... being charged 80 per cent ... of the indirect costs incurred by icare to manage all of its statutory

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schemes ... and 64 per cent of all direct costs. You make the recommendation: Insurance and Care NSW should ensure its approach to allocating services fees to the Workers Compensation Nominal Insurer and the other schemes it manages, is transparent and reflects actual costs. You have also stated: icare has not been able to demonstrate that its allocation of costs reflects the actual costs incurred by each scheme. What I am interested in is: How much has the Nominal Insurer paid for costs that icare should have attributed to other schemes? You might need to take that on notice.

Ms CRAWFORD: I would have to take that on notice, I am sorry.

ANSWER:

I understand that the Auditor-General has advised that a response will be provided directly to the Committee.

QUESTION –

The Hon. DANIEL MOOKHEY: Right—that is worrying. Do you wish to identify the other agencies that might have such a problem?

Ms CRAWFORD: No, I would have to take that on notice.

ANSWER:

I understand that the Auditor-General has advised that a response will be provided directly to the Committee.

QUESTION –

The Hon. DANIEL MOOKHEY: Fair enough. Also in that section you make the point, insofar as Treasury Managed Fund goes, that the number of psychological injury claims has risen dramatically—you did not use the term "dramatically" but I am using the term "dramatically". And that is attributable to the police, actually— we have established that elsewhere. Firstly, did you establish that those claims were arising from additional NSW Police Force claims?

Ms CRAWFORD: I would have to take that on notice. I am not certain.

The Hon. DANIEL MOOKHEY: If so, can you take on notice why you think there are so many more additional psychological injury claims coming from the NSW Police Force?

Ms CRAWFORD: I could not express a general view about that.

The Hon. DANIEL MOOKHEY: That is fair.

Ms CRAWFORD: It has been the subject of past audits that we have done through my office so I could refer you to those.

ANSWER:

I am advised that the Auditor-General has advised that a response will be provided directly to the Committee.

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QUESTION –

The Hon. DANIEL MOOKHEY: Did you see Mr Staples' reply?

Mr REARDON: I will take it on notice.

ANSWER:

Answer from Mr Reardon:

The letters from Minister Constance to Mr Staples dated 27 February 2020, and Mr Staples' response dated 31 July 2020, were tabled by Peter Regan, A/Secretary, on 25 February 2021.

The Secretary refers to his evidence to the Committee in relation to the termination of Mr Staples on 4 March 2021.

QUESTION –

Ms ABIGAIL BOYD: Mr Reardon, if we could pick up on the discussion that we were having this morning—with a little bit more time at our leisure now—when we were looking at the number of senior Ministers. I asked you how many were senior Ministers at the time that the Cabinet was first formulated in 2019. Do you have that information?

Mr REARDON: Sorry about earlier. The terminology "senior Minister" vis-a-vis cluster Minister we were just trying to line up. I do have some information and I will give that to you, and then anything else I might take on notice. The Premier may designate which Ministers will be senior Ministers for the purposes of the Parliamentary Remuneration Act 1989. Ministers designated as those senior Ministers receive a different salary than other Ministers. Schedule 1 to the Act also sets out the salaries of office and expense allowances for those office holders, including the Premier, the Deputy Premier, Leader of the Government in the Legislative Council, Deputy Leader of the Government in the Legislative Council and Parliamentary Secretaries. There is a group of senior Ministers. Where that is placed in terms of formalisation I do not know, in terms of whether it is gazetted or not. If it is, I could furnish that to you; if it is not, it is probably something I will need to take on notice.

ANSWER:

Answer from Mr Reardon:

See the answer above.

QUESTION –

Ms ABIGAIL BOYD: If you could tell me which Ministers are senior Ministers for the purposes of the Parliamentary Remuneration Act?

Mr REARDON: If they 100 per cent line up—they may not 100 per cent line up. I am assuming they would but I just do not have enough detail in front of me. I can take it on notice.

ANSWER:

Answer from Mr Reardon:

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See the answer above.

QUESTION –

Ms ABIGAIL BOYD: I want to know which ones are senior Ministers for the purposes of the Parliamentary Remuneration Act. Specifically, I want to know which ones they are at the moment and how many were senior Ministers in 2019. If you have any other data on the numbers of Ministers who were designated as "senior" over the last six years that would be particularly useful. I understand you would have to go and have a look for that.

Mr REARDON: So I will take it on notice. It is just that if it is not something that is normally available, it might be something that is considered sourced through the Government Information (Public Access) Act [GIPAA], for example, so I do not know.

ANSWER:

Answer from Mr Reardon:

See the answer above. In addition:

- By instrument dated 30 January 2017, the Premier designated 11 Ministers to be Senior Ministers for the purposes of the *Parliamentary Remuneration Act 1989* (the **Act**)
- By instrument dated 2 April 2015, former Premier Baird designated nine Ministers to be Senior Ministers for the purposes of the Act.

QUESTION –

Ms ABIGAIL BOYD: Understood. In relation to Parliamentary Secretaries, I understand we have one additional Parliamentary Secretary compared to what we had just after the election in 2019. Is that correct?

Mr REARDON: I do not know. I could go and grab a list, but I do not know.

Ms ABIGAIL BOYD: If you could confirm for me, that would be very useful.

ANSWER:

Answer from Mr Reardon:

On 24 April 2019, the Premier appointed 17 Members of Parliament to hold office as Parliamentary Secretaries. There are currently 19 Parliamentary Secretaries.

QUESTION –

Ms ABIGAIL BOYD: Thank you. That would be useful. Are you aware of any criteria or statement of roles and responsibilities for Parliamentary Secretaries?

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Mr REARDON: I am not. I can take it on notice, if there is anything I can provide you with, but it will be the same response I gave for Ministers. They are matters for the elected officials and the Premier.

ANSWER:

Answer from Mr Reardon:

Section 38C of the *Constitution Act 1902* provides that a Parliamentary Secretary shall have and may perform such functions as the Premier may, from time to time, determine in respect of him. This does not authorise a Parliamentary Secretary to perform any functions that may, by the terms (express or implied) of an Act or instrument under an Act, or by or under any other law, only be performed by some other person.

Procedural guidance about the role of Parliamentary Secretaries is included in both the *New South Wales Legislative Assembly Practice, Procedure and Privilege* and the *New South Wales Legislative Council Practice*, and the NSW Ministerial Handbook published on the Department of Premier and Cabinet's website.

QUESTION –

The Hon. JOHN GRAHAM: Is it even legal for this money to be appropriated to the local government Minister and then the local government Minister has no say in their approval? It is really determined in the office of the Premier or the Deputy Premier.

Mr REARDON: I am not of a legal background. So I could not—I will not even answer that, because I just would not have anything to add.

The Hon. JOHN GRAHAM: Can you take that on notice? I take it you have not asked that question to date.

Mr REARDON: It may have been asked. You have got an extensive inquiry underway. There may have been evidence given there, and there may have been submissions provided towards that. So it may have been asked.

The Hon. JOHN GRAHAM: Can I ask you to take that on notice? I think it is one of the key questions. We are keen to know whether it is even legal for that to take place.

Mr REARDON: I will take it on notice as soon as I can.

ANSWER:

Answer from Mr Reardon:

The Office of Local Government has previously advised the Clerk of the Parliaments on 19 October 2020 that for each grant from the Stronger Communities Fund – tied grants round, a briefing note authorising the particular expenditure was prepared for and signed by either the Minister for Local Government or the Deputy Secretary, Local Government, Planning and Policy, under delegated authority from the Minister for Local Government under section 12 of the *Public Finance and Audit Act 1983*.

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QUESTION –

The Hon. ADAM SEARLE: This is actually my question: Who gave you that advice? Who told you the Premier's office had no such document?

Mr REARDON: I will take it on notice.

ANSWER:

Answer from Mr Reardon:

In response to the further order for papers relating to the Stronger Communities Fund made on 20 October 2020, Mr Bran Black, Office of the Premier provided a certification letter to the Department of Premier and Cabinet stating that to the best of his knowledge, no documents covered by the terms of the resolution and lawfully required to be provided were held by the Office of the Premier. The certification letter was then provided by DPC to the Clerk in accordance with the usual practice under Standing Order 52 and is available for inspection by members of the Legislative Council.

QUESTION –

Ms ABIGAIL BOYD: Are you able to give me that data as a percentage figure?

Ms CRUICKSHANK: I am actually not very good at maths.

Mr REARDON: Take it on notice.

Ms CRUICKSHANK: I will have to take it on notice.

ANSWER:

Answer from Ms Cruickshank:

The Premier's Priority has a target to reduce the absolute number of domestic violence assault re-offenders by 25%. A percentage figure is not routinely reported by the Premier's Implementation Unit.

Notwithstanding the above, the figure provided in budget estimates (1,797 domestic violence assault re-offenders) represents a re-offending rate of 10.8%. That is, 10.8% of domestic violence assault offenders in the 12 months to June 2020 had offended in the 12 months prior.

QUESTION –

The Hon. ADAM SEARLE: Sure. But, for all I know, the chief of staff might have also given the attestation on the basis of whatever he or she was told. So I just wanted to try to find out in this particular instance who spoke to whom, what was the chain and what was the process that led to the information coming back to the upper House.

Mr REARDON: I will take on notice for my general counsel to provide any further information, if she can.

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ANSWER:

Answer from Mr Reardon:

Agencies and Ministers' Offices named in a resolution under Standing Order 52 are notified by the Department of Premier and Cabinet's Information and Privacy Unit about the passing of the resolution, and informed that they are required to certify to the Department, which collates all responses, that all relevant documents have been provided or that no such documents are held. This process was followed in relation to the further order for papers relating to the Stronger Communities Fund made on 20 October 2020.

Mr Bran Black, Office of the Premier provided a certification letter to the Department stating that to the best of his knowledge, no documents covered by the terms of the resolution and lawfully required to be provided were held by the Office of the Premier. The letter was delivered by hand to the Acting Executive Director, Legal, of the Department's Office of General Counsel on 21 October 2020.

On 22 October 2020, the Secretary of the Department of Premier and Cabinet wrote to the Clerk of the Parliaments in response to the further order for papers, attaching the relevant certification letters, including the letter from the Office of the Premier. The Clerk received the response at 9.15am on 22 October 2020.

QUESTION –

The Hon. ADAM SEARLE: It was. And the register of Ministers' interests, that is also maintained by DPC for the Premier?

Mr REARDON: I will take that on notice exactly where it lands but I believe it is our information and communications technology [ICT] system housing what is basically documents that are at political level. So the owners of the documents under the MOPS Act and the Ministers' Office Handbook, we house it on our ICT system. That would be how I would describe it.

The Hon. ADAM SEARLE: Okay. When Mr Maguire's various business dealings became public knowledge both in 2018 and more extensively last year at the ICAC, he disclosed—it was disclosed a number of activities of a business nature that he was engaged in. What steps did you or DPC take both in 2018 and 2019 to go back to the register to see whether or not Mr Maguire had disclosed any of these interests or matters?

Mr REARDON: I would have to take that on notice. We maintain the register on behalf of the Premier through our Office of General Counsel at Premier and Cabinet, but I will take on notice about any actions the General Counsel has done. All I would say is that the General Counsel—both Kate Boyd, the current General Counsel, and Karen Smith, the previous General Counsel—were very proactive on that register.

ANSWER:

Answer from Mr Reardon:

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In addition to standards of conduct applying to them in their capacity as Members of Parliament, all Ministers and Parliamentary Secretaries are required to comply with the *NSW Ministerial Code of Conduct* (the **Code**).

Ministers and Parliamentary Secretaries are responsible for their compliance with the Code.

Enforcement of the requirements of the Code, including any sanctions for breach, is a matter for the Premier.

The Department of Premier and Cabinet (**DPC**) supports the Premier in relation to the administration of the Code.

DPC keeps and maintains on behalf of the Premier:

- the Ministerial Register of Interests
- the Schedule to the Ministerial Register of Interests, and
- the Ministerial Register of Gifts (which holds disclosures of gifts and hospitality).

DPC provides advice and assistance to Ministers and Parliamentary Secretaries in relation to the Code.

QUESTION –

The Hon. ADAM SEARLE: Okay. Can you please take on notice what concrete steps in fact were taken in the wake of last year's ICAC evidence to pursue these matters to make sure that all of these disclosures that were required were being made?

Mr REARDON: I will take on notice what the General Counsel has been doing over the years and anything in the last months. Absolutely.

ANSWER:

Answer from Mr Reardon:

The Department of Premier and Cabinet (**DPC**) undertakes the following actions to support Ministers and Parliamentary Secretaries to understand their obligations under the *NSW Ministerial Code of Conduct* (the **Code**):

- writing to and meeting with all new Ministers and Parliamentary Secretaries to explain their obligations under the Code
- writing to all current Ministers and Parliamentary Secretaries to remind them of their obligations under the Code, including by reminding them to advise the Premier of any changes to their interests or to those of their immediate family members
- providing guidance materials on the Code to Ministers and Parliamentary Secretaries which are updated and re-circulated as and when required, such as fact sheets, checklists, and template disclosure letters

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- writing to all Ministers and Parliamentary Secretaries when they cease to hold office in relation to continuing obligations under the Code and the *Lobbying of Government Officials Act 2011*.

While DPC supports the Premier in relation to the administration of the Code, DPC is not an independent investigative body.

The enforcement of the requirements of the Code, including any sanctions for breach, is a matter for the Premier.

The Code has been prescribed as an applicable code of conduct for the purposes of section 9 of the *Independent Commission Against Corruption Act 1988*. A substantial breach of the Schedule to the Code, if done knowingly, may be investigated by the ICAC and give rise to a finding of corrupt conduct.

If DPC suspects on reasonable grounds that a substantial breach of the Code may have occurred, DPC would take all appropriate steps in relation to that matter, including briefing the Premier and referring the matter to the ICAC.

It is not DPC's role to take enforcement action in relation to an apparent failure of a Minister or Parliamentary Secretary to comply with the disclosure requirements set out in the *Constitution (Disclosures by Members) Regulation 1983*. A breach of the Regulation is a matter for the Parliament.

QUESTION –

The Hon. ADAM SEARLE: If a member of Parliament is approaching the Premier and asking the Premier to allocate funds from the discretionary fund and that would have the effect of conferring a benefit on an immediate family member, as defined under the code, would that not require the Premier to disclose, "This involved an immediate family member."

Mr REARDON: I will simply say what I am advised. Under clause 6 of the code of conduct: A Minister, in the exercise or performance of their official functions, must not act ... improperly for their private benefit or for the private benefit of any other person. Under clause 11 of the code: private benefit means any financial or other advantage to a person (other than the State of New South Wales or a department or other government agency representing the State) It does not include a benefit that— ... comprises merely the hope or expectation that the manner in which a particular matter is dealt with will enhance a person's or party's popular standing. Beyond that, anything you ask me more specifically I will need to take on notice, Mr Searle.

The Hon. ADAM SEARLE: Okay. The definitions part of the code defines "family member" in relation to a Minister. I understand that would include the Premier. It extends to "any other person with whom the Minister is in an intimate personal relationship". The term "intimate personal relationship" is not defined in the code, so we have to assume that it is just the ordinary English language meaning of those words. Is that not correct?

Mr REARDON: Yes, look, Mr Searle, welcome to the jungle here. I am getting into bush lawyer territory, and I am not willing to do that, so I will take it on notice. I just do not have an answer.

The Hon. ADAM SEARLE: Okay.

ANSWER:

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Answer from Mr Reardon:

Clause 16 of the Schedule to the Ministerial Code of Conduct (the **Code**) provides that a Minister or a Parliamentary Secretary who is aware that a particular decision (or other action) to be taken by them could reasonably be expected to confer a private benefit on another Member of Parliament belonging to the governing political party or coalition of parties or any of their family members, must give notice to the Premier of the matter before making the decision or taking the action.

A note to clause 16 states that a Ministerial decision that relates to another Member's electorate does not necessarily confer a private benefit on the Member if the benefit to the relevant Member only arises because the Member is a part of the relevant community and that benefit is in common with, and no different in nature and degree to, the benefit conferred on other members of the community, or if the benefit to the Member comprises only the prospect that the Minister's decision could enhance the Member of Parliament's popular standing in their community.

For the purposes of the Code a 'private benefit' means any financial or other advantage to a person, *other than* a benefit that:

- (a) arises merely because the person is a member of the public or a member of a broad demographic group of the public and is held in common with, and is no different in nature and degree to, the interests of other such members; or
- (b) comprises merely the hope or expectation that the manner in which a particular matter is dealt with will enhance a person's or party's popular standing.

A family member, in relation to a Minister, means:

- (a) the Minister's spouse or de facto partner;
- (b) a child of the Minister or of the Minister's spouse or de facto partner;
- (c) a parent of the Minister or of the Minister's spouse or de facto partner;
- (d) a brother or sister (including step-brother or step-sister) of the Minister; or
- (e) any other person with whom the Minister is in an intimate personal relationship.

QUESTION –

The Hon. ADAM SEARLE: Okay. Mr Reardon, under the code the Premier is the guardian. Disclosures have to be made to the Premier. To whom is the Premier required to make disclosures? Is it to you?

Mr REARDON: I will take it on notice. I would have to seek advice from my general counsel.

ANSWER:

Answer from Mr Reardon:

The only part of the *NSW Ministerial Code of Conduct* (the **Code**) that requires Ministers, including the Premier, to make disclosures to the Department of Premier and Cabinet (**DPC**) is Part 4 (Gifts and Hospitality) of the Schedule to the Code.

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Where the Code otherwise requires Ministers to provide disclosures to the Premier, the Premier has made discretionary disclosures to DPC even though this is not a formal requirement of the Code.

QUESTION –

The Hon. JOHN GRAHAM: Mr Schmidt, I am going to interrupt you at that point but only to ask this question, although I am going to ask you to take it on notice. On that cybersecurity point, can you tell us on notice, just give us some sense of the advice you might have got in your discussions with the Australian Electoral Commission or with some of those Federal security agencies you have talked about or with your international counterparts about some of the risks that you are worried about? Obviously, do so appropriately—so be sensitive to what you do and do not want in the public domain—but if you could give us some of that information, I think that would be very helpful, perhaps on notice though.

Mr SCHMIDT: Could I suggest a slightly alternative approach with your indulgence?

The Hon. JOHN GRAHAM: Absolutely.

Mr SCHMIDT: Arising out of the Public Accountability Committee report, there is a recommendation that the issue of funding for State general elections, including integrity and threats, goes to the JSCEM for a further hearing. There are a number of cyber issues et cetera that I would like to explore more fully in that forum and perhaps in camera.

The Hon. JOHN GRAHAM: In fact, I have given notice of exactly that motion in the House. I am asking for this information so the House might properly consider exactly your proposal. If you were able to provide some information on notice, that would be helpful.

Mr SCHMIDT: As you can see, I am a bit sensitive about exposing some of these in a broader forum, but put the question on notice and we will see what we can come back to assist in the deliberation.

The CHAIR: Are you going to provide the answer on notice? It is just for the records of the meeting.

Mr SCHMIDT: I will take the question on notice and see what I can provide with the caveats that we have talked about to the extent that I feel it a reasonable thing to do.

ANSWER:

I understand the Electoral Commissioner has advised that a response will be provided directly to the Committee.

QUESTION –

The Hon. MARK LATHAM: We deserved medals back in the day, but, anyway, that is history too. If I can come to the question, Sarah Cruickshank, of pecuniary interest returns because mention was made of the Premier's responsibility to monitor and have control and exposure of conflicts of interest at an Executive Government level. What was the process for the Premier examining the pecuniary interest returns of various members of the Executive Government?

Ms CRUICKSHANK: I actually do not know. I would have to take that on notice. I do not know. My understanding—but I qualify all of this with, I will have to take it on notice and come back to you—was it was the responsibility of Ministers to put forward their interests and, I think I am right in

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saying, DPC manages that register. But it is very much the responsibility is on the shoulder of the Minister to do so, but maybe Mr Reardon can clarify.

ANSWER:

Answer from Ms Cruickshank:

The Department of Premier and Cabinet (**DPC**) keeps and maintains on behalf of the Premier:

- the Ministerial Register of Interests;
- the Schedule to the Ministerial Register of Interests; and
- the Ministerial Register of Gifts (which holds disclosures of gifts and hospitality).

The Premier has previously approved DPC undertaking actions in relation to the Ministerial Code of Conduct (the **Code**) where no decision of the Premier is required. In this regard, DPC:

- acknowledges disclosures of pecuniary interests, changes to interests and the interests of immediate family members and places them on the Ministerial Register of Interests;
- manages the disclosure of potential or perceived conflicts of interest where there is no actual conflict, subject to the Premier's approval of DPC's recommended approach; and
- manages the disclosure of potential private benefits to other members of the Government or family where there is no actual benefit, subject to the Premier's approval of DPC's recommended approach.

Where a Minister or Parliamentary Secretary discloses a potential or perceived conflict, or a potential private benefit, DPC briefs the Premier on the disclosure so that she is informed and may consider approving any management of the matter proposed by DPC.

DPC provides all matters that require a decision of the Premier to the Premier for her consideration and decision.

QUESTION –

The Hon. ADAM SEARLE: So who would know how many grievances have been raised? Is that information kept anywhere?

Ms CRUICKSHANK: I think we would have to take that on notice. My guess is that it would be.

Mr REARDON: Yes, we would have to take it on notice.

ANSWER:

Answer from Ms Cruickshank:

In line with the policy on Workplace Conduct for Political Office Holders' staff, grievances are managed by the relevant Chief of Staff. Where a grievance concerns the Chief of Staff, the grievance is handled by the Premier's Chief of Staff. The policy on Workplace Conduct is published on the Departments website: <https://publications.dpc.nsw.gov.au/ministers-office-handbook/attachments/attachment-1/>.

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QUESTION –

The Hon. JOHN GRAHAM: Let me turn to the second. The Treasurer is here in writing saying the Premier approved it. The Premier is saying that she did not. So I am inviting you to, on notice, let us know who approved this and whether the Premier was involved in the approval or not.

Mr REARDON: I will take it on notice, Mr Graham. I just do not have any more detail myself.

ANSWER:

Answer from Mr Reardon:

A letter signed by the Treasurer noted agreements of the reservation of funding for the project.

QUESTION –

The Hon. JOHN GRAHAM: All I am asking is at those two or maybe three meetings between April and 22 June that we know about that Ministers have given evidence about, were departmental officials present? Perhaps you might want to take that on notice.

Mr REARDON: I will take it on notice, but I will say that participation in some meetings—and the reason I was giving you that background was to say that on those corridors, I was certainly involved in discussions on those. So there was myself as a departmental officer. Whether there were others there, I will take that on notice.

The Hon. JOHN GRAHAM: So were you present at these meetings?

Mr REARDON: I do not know on those dates—I will take that on notice. But certainly I was involved in discussions about these corridors, which is why I actually stated what corridors they were.

The Hon. JOHN GRAHAM: Yes, absolutely. Can you also taken on notice: Was a record kept of what was discussed at those meetings and who was present?

Mr REARDON: Yes, I will take that on notice.

ANSWER:

Answer from Mr Reardon:

The Department has no records of scheduled meetings on this matter.

QUESTION –

The Hon. ADAM SEARLE: Mr Reardon, in relation to the management of the Ministerial Code of Conduct, are you able to tell us how many rulings have been sought by the Premier each year over the last four years? I am happy for you to take it on notice.

Mr REARDON: No, I would not. If I can take it on notice, I can.

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The Hon. ADAM SEARLE: Thank you. Also, could you please take on notice how many rulings have been made by the Premier under the code year by year and how many rulings have been revoked?

Mr REARDON: Could you just clarify what you mean by rulings under the code?

The Hon. ADAM SEARLE: So under the ministerial code—

Mr REARDON: So if you were talking about the pecuniary interest register that we house and manage for the Premier, is that what you mean?

The Hon. ADAM SEARLE: Yes, when there are potential conflicts or there are issues under the code, there is a process by which—

Mr REARDON: Just so I am clear, though, it is the interest register?

The Hon. ADAM SEARLE: It is the interest register.

Mr REARDON: If I can provide anything, I will take it on notice. But I do not know—I would have to take advice off my general counsel about what I could provide because it would disclose personal matters.

The Hon. ADAM SEARLE: I am not asking for any names or any details, I am just asking—if you can—to take on notice how many rulings—

Mr REARDON: The number?

The Hon. ADAM SEARLE: Yes, the number of rulings that have been sought each year, the number of rulings that have been made each year over the past four years and how many rulings have been changed or revoked—if, in fact, that information is kept.

Mr REARDON: If I can provide anything, I shall.

ANSWER:

Answer from Mr Reardon:

The following table sets out the number of Ministers who made applications for Premier’s rulings under clause 27 of the Schedule to the *NSW Ministerial Code of Conduct* (the **Code**) during the last four years:

Year	No of Ministers
2021	0
2020	1
2019	8
2018	0

The following table sets out the number of Ministers to whom the Premier issued rulings under clause 27 of the Schedule to the Code during the last four years:

Year	Interim rulings	Final rulings	Amended rulings	Rulings not required
2021	0	0	0	0
2020	1	1	0	0

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2019	1	6	1 ¹	1
2018	0	0	0	0

During the last four years, no rulings have been revoked by the Premier under clause 27(3)(a) of the Schedule to the Code. However, rulings issued by the Premier to three Ministers are no longer in effect, either because the Minister has ceased to hold Ministerial office or because the relevant interest is no longer held.

QUESTION –

The Hon. ADAM SEARLE: It was in relation to the new parental leave policy that the Government announced at the time of the budget. Has DPC been involved in the development of the new parental leave policy for the New South Wales public sector? I wanted to get some details about how that has been rolled out.

Mr REARDON: My chief people officer is here with me. She is not a witness. She would probably burn a hole in the back of my head if I do not know this, but I will take it on notice. I will give you as much information as I can through both my chief people officer and the Public Service Commissioner.

ANSWER:

Answer from Mr Reardon:

The NSW Government announced in its 2020-21 Budget Paper No.1, Budget Statement a new paid parental leave scheme which is gender neutral and inclusive of all family structures; supporting all employees to thrive and balance work and family life. The scheme will offer 14 weeks leave to a child's primary carer, regardless of gender.

By extending parental leave entitlements to all employees the new scheme aims to:

- increase women's workforce participation
- have a positive impact on working families' ability to balance work and family life and promote a more equal division of paid and unpaid work
- enable partners to experience a greater share in the upbringing of children.

The changes apply to employees working in the NSW government sector and will take effect from 1 July 2021.

A sector-wide working group was established in October 2020 by the NSW Public Service Commission and is currently working through policy and implementation issues to ensure a well communicated, consistent approach to the new provisions. The Department of Premier and Cabinet is represented on that working group.

¹ Rulings issued to one Minister (prior to 2018) were reviewed by the Premier in 2019 and re-issued as some interests were no longer held.

QUESTION –

The Hon. ADAM SEARLE: Is there a 2020-21 contract in place for them?

Ms CRUICKSHANK: I am happy to take on notice as to whether there is a standing contract.

The Hon. ADAM SEARLE: Please.

Ms CRUICKSHANK: We have engaged them once so far.

The Hon. ADAM SEARLE: Can you tell us who in DPC was responsible for awarding the contract to Delivery Associates or, otherwise, how the process came to be that they were awarded that contract?

Ms CRUICKSHANK: I will have to take that on notice. I suspect it may predate this current set of priorities, but I will check that for you.

The Hon. ADAM SEARLE: Did Delivery Associates provide a report or any other documentation as a result of their work and, if so, and again on notice, if you can please provide a copy to the Committee?

Ms CRUICKSHANK: Yes, I will look at that.

ANSWER:

Answer from Ms Cruickshank:

Delivery Associates was engaged in 2020-21 for a stand-alone piece of work utilising the Performance and Management Services prequalification scheme managed by NSW Procurement.

The contract for this piece of work commenced in October 2020 and was completed in November 2020. There is no ongoing contract in place with Delivery Associates.

The contract was awarded by the Head of the Premier's Implementation Unit. The Premier's Implementation Unit approached Delivery Associates directly for this piece of work, owing to their Deliverology expertise. The procurement process was run consistent with the Performance and Management Services prequalification scheme.

Delivery Associates provided a report at the conclusion of this work, which has been used to inform the strategies for the Protecting Our Most Vulnerable Children priority. Further information on these strategies is available on the Premier's Priorities website.