
Discussion Paper – Members' Code of Conduct and training and guidance

Background

The Privileges Committee is considering recommendations to Parliament arising from two significant ICAC reports (Operations Keppel and Witney) and an independent review of workplace issues at Parliament (the Broderick Review).

- **Operation Keppel:** *'Investigation into the conduct of the then member of Parliament for Wagga Wagga and then premier and others (Operation Keppel)'* is the report of the ICAC investigation into allegations of corrupt conduct by the former member Daryl Maguire, former Premier Gladys Berejiklian, and other individuals.¹ The report details the ICAC's investigation into allegations of corrupt conduct and made findings that Mr Maguire and Ms Berejiklian did engage in serious corrupt conduct. Additionally, the report outlines a number of 'corruption risks' identified through the investigation and contains 18 'corruption prevention' recommendations directed at addressing systemic weaknesses to reduce the likelihood of corrupt conduct.
- **Operation Witney:** *'Investigation into the conduct of the local member for Drummoyne'* is the report of the ICAC investigation into actions of the former member for Drummoyne, John Sidoti.² This report makes 15 corruption prevention recommendations, seven of which are directed at Parliament. A number of these recommendations were considered by the Privileges Committee as part of its 2022 review of the Members' Code of Conduct.³
- **Broderick Review:** *'Leading for Change: Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022'* is the report of an independent review of workplace issues at NSW Parliament.⁴ The Privileges Committee is considering 11 recommendations from the report directed at the committee, some of which were also considered by the committee as part of the 2022 Code of Conduct review.

This discussion paper sets out the recommendations from these three reports directed at the Privileges Committee in relation to two areas – the Members' Code of Conduct, and training and professional education for members. Recommendations relating to the Constitution (Disclosures by Members) Regulation 1983 will be considered as part of the upcoming inquiry into the draft regulation (yet to be tabled).

¹ Available at: [Report of the Independent Commission Against Corruption entitled 'Investigation into the conduct of the then Member of Parliament for Wagga Wagga and then Premier and others: Operation Keppel', dated June 2023 \(nsw.gov.au\).](https://www.parliament.nsw.gov.au/lcdocs/inquiries/2906/Final%20Report%20-%2090%20-%20Review%20of%20Members%20Code%20of%20Conduct%202022.pdf)

² Available at: [Report of the Independent Commission Against Corruption entitled 'Investigation into the conduct of the local Member for Drummoyne', dated July 2022 \(nsw.gov.au\).](https://www.parliament.nsw.gov.au/lcdocs/inquiries/2906/Final%20Report%20-%2090%20-%20Review%20of%20Members%20Code%20of%20Conduct%202022.pdf)

³ See: Report No. 90 of the Privileges Committee entitled 'Review of Members Code of Conduct (2022)', dated November 2022. Available online: <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2906/Final%20Report%20-%2090%20-%20Review%20of%20Members%20Code%20of%20Conduct%202022.pdf>

⁴ Available at: [Reviews and reports \(nsw.gov.au\).](https://www.parliament.nsw.gov.au/lcdocs/inquiries/2906/Final%20Report%20-%2090%20-%20Review%20of%20Members%20Code%20of%20Conduct%202022.pdf)

Structure of this Discussion Paper

This discussion paper sets out the recommendations directed at the Privileges Committee arising from Operation Witney, Operation Keppel and the Broderick Review related to the Members' Code of Conduct, and training and professional education for members. For each recommendation, it sets out the existing provisions in operation, the rationale for the recommendation, issues for discussion, and any progress on or previous consideration of the recommendation by the committee.

The discussion paper has been structured as follows.

Part 1: Members Code of Conduct

- Guiding principles
- Conflicts of interest
- Intermingling of parliamentary and personal resources
- Friendship groups
- Identifying beaches
- Bullying, sexual harassment and sexual misconduct
- Safe reporting

Part 2: Training and professional education for members

- Current offerings
- ICAC recommendations
- Rationale for the recommendations
- Progress on implementation of ICAC recommendations
- Bullying, sexual harassment and sexual misconduct
- Incentivising participation

Additional Broderick Review recommendations

Discussion questions

Part 1: Members' Code of Conduct

A number of recommendations from the three reports address the Members' Code of Conduct in order to strengthen the Code and clarify members' obligations. The recommendations in Operations Witney and Keppel are directed in particular to how conflicts of interests are defined and explained. The Broderick Review made three recommendations to amend the Code for clarity and to provide for safe reporting.

Code of Conduct: Guiding principles

Current provisions

- 1.1 The Members' Code of Conduct contains a short preamble that provides:

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 institutions and conventions of Parliament, and using their influence to advance the common good of the people of New South Wales.

- 1.2 In addition to the Preamble, section 1 'Purpose of the Code' sets out some broad obligations of members. It notes that members are to consider the public interest, avoid conflicts between personal interests and their duties as a member, and not act dishonestly for their own or another's personal gain.
- 1.3 By contrast, the NSW Ministerial Code of Conduct⁵ has a more detailed 12-point preamble which highlights the various responsibilities and ethical duties of Ministers and Parliamentary Secretaries.

ICAC recommendation

Operation Keppel Recommendation 1

That the Code of Conduct for Members and the NSW Ministerial Code of Conduct be amended to provide for a set of principles of conduct and guiding values addressing the:

- seven general principles of conduct which underpin public life developed by the United Kingdom's Committee on Standards in Public Life (and the 2021 descriptors to those principles)
- three guiding values of public trust, public interest and public duty.

⁵ <https://arp.nsw.gov.au/assets/ars/862b3be2e6/2014-5461.pdf>

1.4 Operation Keppel Recommendation 1 proposes that the Members' and Ministerial Codes of Conduct be amended to include three guiding values – of public trust, public interest and public duty – and the following seven principles of conduct which underpin public life:

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership.⁶

Rationale for the recommendation

1.5 In its report on Operation Keppel, ICAC suggested the existing Codes for members and Ministers are insufficient, stating: 'The community may conclude that the applicable codes of conduct had little or no effect in discouraging the conduct of Mr Maguire and Ms Berejiklian identified in this report'.

1.6 In explanation of the recommendation, ICAC noted that 'greater emphasis on ethical values and principles is required to enhance public confidence and trust in government and the institution of the NSW Parliament'. ICAC argued that these principles and values should be explicitly articulated in the Code in order to set a positive tone from the top, promote adherence to ethical practices, and provide a clear framework for interpreting the Code.

Issues for discussion

1.7 The current Code of Conduct with its preamble has only been in place since 2020, with some additions made in 2022. While Keppel reported after this date, most of the events it investigated occurred under a previous version of the Code. The Committee will need to consider issues such as:

- Would the conduct of members investigated in Keppel and Witney have been any different if the Members' Code of Conduct had begun with the seven principles of conduct and guiding values developed by the UK Committee on Standards in Public Life?

⁶ The general principles of conduct which underpin public life were developed by the United Kingdom's Committee on Standards in Public Life in 1995 and the descriptors to those principles were updated in 2021:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1029944/Upholding_Standards_in_Public_Life_-_Web_Accessible.pdf

- Is it desirable to change the core principles enunciated in the current Code relatively soon after both the Council and Assembly Committees have agreed on these to bind their members?
- What evidence did the ICAC find of the impact of the seven principles of public life on improving the ethical behaviour of members of the UK Parliament?

Code of Conduct: Conflicts of interest

Current provisions

1.8 Conflicts of interest are addressed in section 7 of the Code, which provides:

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.

1.9 The Code also contains some brief commentary that notes the distinction between disclosing and having a conflict of interest, and that a non-pecuniary interest may still give rise to a conflict of interest if not managed appropriately.

1.10 Conflicts are also referred to in section 8, 'Gifts':

- (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.

1.11 The Members' Guide refers to standing order 117, which prevents a member from voting on a matter in which they have a direct pecuniary interest, and standing order 217, which prevents a member from participating in a committee inquiry where they have a direct pecuniary interest in the inquiry. Members are directed to the Clerk or the Parliamentary Ethics Adviser to seek further information.

ICAC recommendations

Operation Witney Recommendation 3

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

Operation Witney Recommendation 5

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

Operation Keppel Recommendation 2

That the NSW Parliament, in consultation with the Commission, develops a comprehensive framework applicable to members that addresses the avoidance, disclosure and management of conflicts of interest. The framework should provide members with practical guidance about how to avoid, disclose and manage common conflicts of interest.

- 1.12** Operation Witney Recommendation 3 calls for a comprehensive conflict of interest definition in the Code of Conduct with consistency and detail around how to avoid, recognise, disclose and manage conflicts of interest. Recommendation 5 recommends that guidance material for members be updated to provide further detail on how to disclose and manage potential conflicts.
- 1.13** Operation Keppel Recommendation 2 builds on the Witney recommendations and calls for the Parliament to develop a comprehensive framework for conflicts of interest in consultation with ICAC. Specifically, the framework should address how common conflicts are to be avoided, disclosed and managed and provide practical guidance to members.
- 1.14** In its Operation Keppel report, ICAC recommended that the mechanisms to disclose and manage conflicts of interest for members be improved in line with ICAC's own control framework and include the following features:
- consistency and clarity regarding what constitutes a conflict of interest and the level of detail required in a disclosure
 - consistency and clarity on how to make a disclosure
 - consistency and clarity on how disclosures should be managed
 - emphasis on avoiding conflicts of interest
 - transparency and accountability by requiring continuous updating of registered interests

- enforcement mechanisms
- ongoing professional education to raise awareness and promote an ethical culture.

Rationale for the recommendations

- 1.15** In both Operations Keppel and Witney, ICAC highlighted the importance of managing conflicts of interest. In Operation Keppel, ICAC argued that timely disclosure of conflicts 'is fundamental to the avoidance of corruption'.⁷ In Operation Witney, ICAC observed that 'it is highly likely that a failure by public officials to recognise, disclose and manage conflicts of interest contributes significantly to a loss of public confidence in the public sector'.⁸
- 1.16** In Operation Witney, ICAC found that a conflict arose between the private interests of Mr Sidoti's family and his public duty as an elected representative, as Mr Sidoti was pursuing planning outcomes that would have benefited his family's property interests. ICAC rejected Mr Sidoti's view that he did not have to disclose his family's property interests because they were widely known. Furthermore, ICAC held it was 'disingenuous for Mr Sidoti to attempt to pursue his private or family interests under the guise of acting in the public interest and for the benefit of the community'.⁹
- 1.17** In putting forward the recommendations in Operation Witney, ICAC noted that, despite revisions made in 2020 requiring members take reasonable steps to draw attention to conflicts of interest, there are still key gaps in the Code. Namely, that the Code does not:
- include a definition of a conflict of interest
 - provide guidance on what 'reasonable steps' should be taken
 - outline what steps to take to manage a conflict of interest.¹⁰
- 1.18** ICAC also highlighted the limited guidance for members regarding disclosure of conflicts in the applicable Members' Guide, and the need for practical examples illustrating how conflicts can be avoided, resolved, disclosed and managed.
- 1.19** In Operation Keppel, ICAC reiterated its Operation Witney recommendation that a clear, consistent and comprehensive definition of a conflict of interest be developed. The Commission acknowledged progress made by the Parliament on this issue, but noted that the Operation Keppel investigation 'demonstrates the importance of these reforms'.¹¹
- 1.20** In particular, ICAC noted that amendments to the Code in 2020 expanded members' obligations concerning conflicts of interest so that members must now take reasonable steps not only to disclose, but also to *avoid* and *resolve* any conflict between their private and public interests. According to ICAC, this gives rise to a 'clear implication ... that members must

⁷ Operation Keppel vol 2, p 329.

⁸ Operation Witney, p 177.

⁹ Operation Witney, p 178.

¹⁰ Operation Witney, p 177.

¹¹ Operation Keppel vol 2, p 331.

disclose their conflicting interests *at the relevant time* so the conflict can be considered and managed' [emphasis added].¹²

- 1.21** Despite these changes however, ICAC argued the Code still lacks sufficient detail about conflicts of interests, particularly around what constitutes 'reasonable steps' that a member must take in order to avoid and resolve potential conflicts. It noted that this is in contrast to the procedures outlined in the Ministerial Code.
- 1.22** According to ICAC, Operation Keppel demonstrated how conflicts of interests may arise from having outside paid work or business interests, engaging in lobbying, having close networks, planning for a post-parliamentary career, and close personal relationships. In order to navigate ethical challenges involving conflicts of interest arising from their complex working environment, ICAC argued members require detailed guidelines and clear processes.
- 1.23** Operation Keppel Recommendation 2 requests that ICAC be consulted in developing a conflict of interest framework. It noted that its own conflict of interest control framework could be the basis for an improved framework if tailored to members.¹³ ICAC later reiterated its request to be consulted in relation to this proposed change to the Code in recent correspondence to the Privileges Committee.

Previous consideration by the Privileges Committee

- 1.24** The Privileges Committee considered Operation Witney Recommendations 3 and 5 as part of its 2022 Review of the Code of Conduct. The committee noted that additional explanatory material on the nature of conflicts of interest is available to members. However, it accepted ICAC's view of the limitations of the Code with respect to this issue and supported the inclusion of a definition of conflicts of interest in the commentary of the Code. The committee accordingly recommended: 'That the Commentary in the Code of Conduct be amended to include a definition of conflict of interest that takes account of the views of the Independent Commission Against Corruption concerning the definition of conflict of interest'.¹⁴
- 1.25** The committee also supported the provision of greater guidance for members on how to manage conflicts of interest as per Operation Witney Recommendation 5, recommending that guidance material for members be updated to provide details about their obligations pursuant to clause 7 of the Code on how to take reasonable steps to avoid, resolve and disclose a conflict of interest.

¹² Operation Keppel vol 2, p 329.

¹³ Available at: NSW ICAC, 'Managing conflicts of interest in the NSW public sector', 2018, p 8. [Managing-conflicts-of-interest-in-the-nsw-public-sector_June-2019.pdf](#).

¹⁴ Report No. 90 of the Privileges Committee, 'Review of Members' Code of Conduct (2022)', November 2022, p 15.

1.26 Recommendation 5 was, in part, implemented with 2023 updates to the Legislative Council Members' Guide, which states:

Reasonable steps to *avoid* a conflict of interest may include refraining from voting, asking questions in the House or making representations to ministers in relation to the matter that would give rise to the conflict.

...

Reasonable steps to *resolve* a conflict of interest may include ensuring the conflict is disclosed and either renouncing the interest or ceasing to participate further in the proceedings that have led to the conflict arising.

Reasonable steps to *disclose* a conflict of interest may include drawing attention to the existence of the conflict at the time the conflict arises, even if the interest itself has already been disclosed in the Register of Disclosures.¹⁵

Issues for discussion

1.27 As both Operation Witney and Keppel dealt with incidents which happened prior to the inclusion of a comprehensive explanation of conflicts of interest in the Code of Conduct, a response to the recommendations needs to consider the following:

- To what extent would the current conflict of interest provisions have made it harder for the members in the two ICAC inquiries to undertake the activities the subject of an investigation?
- Have changes made to background materials available to members since the Witney report was released been sufficient to address the concerns raised by the ICAC?
- Do the 'reasonable steps' to avoid conflicts of interest need to be defined, as with the Ministerial Code of Conduct, or will this create unintended consequences if defined too prescriptively?
- Is the ICAC's own framework an appropriate model for the managing of conflicts of interest, as recommended, or do the differences between employees of an integrity agency and the issues faced by members of parliament mean it is not fit for purpose?

¹⁵ New South Wales Legislative Council Members' Guide 2023, p 34.

Code of Conduct: Intermingling of parliamentary and personal resources

Current provisions

1.28 The use of public resources is covered in section 3 of the Code, which provides:

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.

Related guidance

1.29 Brief commentary in section 3 directs members to some additional resources, such as the Members' Entitlements Handbook and Members' Guides of each House. The Members' Entitlements Handbook in turn refers to the Parliamentary Remuneration Tribunal (PRT) guidelines on 'intermingling of parliamentary duties'. The PRT guidelines and determination acknowledge that 'some intermingling of a member's parliamentary duties and non-parliamentary duties is in practical terms not always easily avoided' but state that, where it is not practical to separate use, members must estimate the component of non-parliamentary use and meet these costs independently.¹⁶ The handbook sets out a number of examples where intermingling may occur but notes that some resources should not be intermingled under any circumstances, including:

- members' parliamentary staff
- parliamentary offices
- official business stationery
- allowances relating to travel.
- ICAC recommendation

¹⁶ Parliamentary Remuneration Tribunal, 'Annual Determination: Report and determination of salary and additional entitlements for the Members of the Parliament of New South Wales pursuant to the *Parliamentary Remuneration Act 1989*', 15 June 2023 (as amended 14 July 2023), para 2.3.1, p 75.

Operation Keppel Recommendation 3

That the NSW Parliament's designated committees review and amend the Code of Conduct for Members and the Members Entitlements Handbook (1 July 2022) in relation to the use of public resources, to clarify the limited circumstances in which it is acceptable to intermingle parliamentary duties with personal or private activities. In particular, this review should address the use of:

- parliamentary staff
- parliamentary offices
- stationery
- allowances relating to travel.

Rationale for the recommendation

- 1.30** ICAC referred to the intermingling of public duties with private activities as an 'obvious but common corruption risk'.¹⁷ The failure of members to comply with the guidelines and rules relating to the use of public resources has been a common finding in numerous ICAC reports, including Operations Witney and Keppel. For example, ICAC found that Mr Maguire used various public resources to promote private interests, including his parliamentary office, staff, letterhead, email address and business card. Similarly, concerns were raised in Operation Witney around the use of a parliamentary email address and electorate office.
- 1.31** ICAC argued that the current threshold of 'undue private benefit' in the code is too low, as the threshold 'fails to consider that misuse of parliamentary resources may be an abuse of public funds even if the member does not ultimately gain a tangible "private benefit", such as a financial benefit'.¹⁸ While ICAC accepted that some intermingling may be acceptable, it stated that this needs to be addressed in the Code unambiguously.
- 1.32** ICAC acknowledged the confusion that may arise from inconsistency between the PRT determination and the Members Entitlements Handbook, with the PRT determination stating that "Some intermingling of a Member's parliamentary duties and private activities is, in practical terms, not always easily avoided", and the Handbook noting a number of (specific) resources that must not be intermingled under any circumstance.
- 1.33** ICAC noted further:
- The Commission accepts that in some cases it is difficult to avoid the intermingling of parliamentary duties and private activities. The pursuit of high ethical standards should not require that common sense be abandoned. Like most other workers, a politician should be able to make occasional, limited personal use of publicly-provided resources. This may include making some personal telephone calls, limited internet use and running errands, in circumstances where to do otherwise would be impractical and where it is not conducive to corruption and improper conduct. The relevant codes of conduct need to address this issue unambiguously.

¹⁷ Operation Keppel vol 2, p 334.

¹⁸ Operation Keppel vol 2, p 334.

The Commission's investigation has not located any formal guidance material or procedure about use of the coat of arms, including on official letterheads. There are risks associated with members of Parliament using their parliamentary letterhead when purporting to speak on behalf of the government. In Mr Maguire's case, this was done to advance his personal interests. In her evidence, Ms Cruikshank told the Commission, 'in practice it's well known that unless you're the portfolio holder ... you don't go round expressing opinions on behalf of the government on that particular portfolio issue'. Any proscription that certain official parliamentary resources must not be intermingled with private interests should include an express reference to the parliamentary crest and coat of arms.¹⁹

Issues for consideration

- 1.34** Page 75 of the PRT requires an estimation of the intermingling value to be made and for it to be repaid. Currently the guidelines could mean that a member using the email system for a party newsletter, or for a party preselection may be in breach. The ICAC recommendation could potentially extend this to business cards and stationery.
- 1.35** Given the Keppel investigation dealt with a member using resources for a private commercial interest, clearly in breach of the existing guidelines, the committee will need to consider issues such as:
- Would a further tightening of the guidelines around 'private benefit' lessen the potential for parliamentary resources to be used for private commercial purposes?
 - Would changes to the Members' Code of Conduct clarify the concepts of 'intermingling' and 'private interest' or is this just a matter to be referred to the PRT determination?
 - Whether a limited personal use exemption should be provided - so people can respond to emails from family or friends using parliamentary resources without it constituting a breach?
 - Or could consideration be given to other models of dealing with this issue, such as the approach whether there should be a predominant use test in relation to use of resources for party purposes - with a total ban during the election period - in order to deal with the direct electioneering issue, such as is the case in places in the Commonwealth?

Code of Conduct: Friendship groups

Current provisions

- 1.36** Parliamentary friendship groups are not provided for in the Members' Code of Conduct. Friendship groups are mentioned briefly in the Legislative Council Members' Guide (2023) which provides a link to the NSW Parliament's Parliamentary Friendships Group Policy (2019).

¹⁹ Operation Keppel vol 2, p 335.

- 1.37 As well as the policy, a number of additional resources on parliamentary friendship groups are available on the parliament intranet, including reporting forms, a list of approved groups, and a link to the Parliamentary Remuneration Tribunal Annual Determination. The determination permits members to use their entitlements for participation in an approved parliamentary friendship group with exceptions related to overseas travel.²⁰

ICAC recommendation

Operation Keppel Recommendation 7

To further clarify that the Code of Conduct for Members applies to parliamentary friendship groups, it is recommended:

- (a) that the Presiding Officers strengthen the Parliamentary Friendship Groups Policy to specify that all activities undertaken by members under the auspices of a parliamentary friendship group must be in accordance with the Code of Conduct for Members and related guidelines and procedures
- (b) that the NSW Parliament's designated committees consider amending the Code of Conduct for Members to specifically mention that its application extends to activities involving parliamentary friendship groups.

- 1.38 Operation Keppel Recommendation 7 recommends that the Code of Conduct be amended to specify that it applies to activities involving parliamentary friendship groups. (This follows on from Recommendation 6 which recommends that the Presiding Officers amend the Parliamentary Friendship Groups Policy to include a requirement that members keep each other informed of all parliamentary friendship group activities).

Rationale for the recommendation

- 1.39 ICAC described how Mr Maguire used a parliamentary friendship group 'as a convenient guise' to pursue his private interests, in spite of clear prohibitions against such use in the policy and without disclosing these interests to other members of the group.²¹
- 1.40 ICAC noted that members of parliamentary friendship groups are still subject to relevant codes of conduct. They recommended that language in the policy and handbook requiring members to 'be mindful' of the Code should be strengthened, and that disclosure requirements be made clearer. In order to 'remove any doubt', ICAC also recommended that the Code of Conduct be amended so that it states explicitly that the Code applies to the activities of parliamentary friendship groups.²²

²⁰ Parliamentary Remuneration Tribunal, 'Annual Determination: Report and determination of salary and additional entitlements for the Members of the Parliament of New South Wales pursuant to the *Parliamentary Remuneration Act 1989*', 15 June 2023 (as amended 14 July 2023), pp 73; 105.

²¹ Operation Keppel vol 2, p 337.

²² Operation Keppel vol 2, p 337.

Issues for consideration

- 1.41 The Presiding Officers will be reviewing the Parliamentary Friendship Groups policy in order to respond to Keppel recommendations directed specifically to them, and any recommendations of the Privileges Committee will need to consider the outcome of that review. In addition, some of the issues to be considered could include:
- Will further regulation of Friendship Groups lead to groups being formed and not registered as parliamentary friendship groups, potentially achieving the opposite of what is intended?
 - Given the ICAC investigated the activities of Mr Maguire that he undertook under the cover of a parliamentary friendship group, will explicit mention of the Groups in the Code of Conduct provide any difference to the ICAC's ability to investigate a corruption issue, or would it be purely for educative purposes?
 - Are there alternative ways to raise members' understanding of the risks of inappropriate use of parliamentary friendship groups that could be more effective in deterring the type of determined misconduct outlined in the Keppel report?

Code of Conduct: Identifying breaches

Current provisions

- 1.42 The Members' Code of Conduct sets out the responsibilities of members in various ways. The language of the Code varies from blanket prohibitions on certain conduct, such as improperly using influence to affect decisions, to expressions of what members *ought* not do, such as 'the use of public resources should not knowingly confer any undue private benefit ...'. Additionally, the provisions in relation to the use of public resources, conflicts of interests, and gifts, confer positive obligations on members to take reasonable steps to ensure that these issues are managed and disclosed appropriately.
- 1.43 Enforcing the code is generally a matter for the relevant House, though a substantial breach may constitute corrupt conduct and therefore come within ICAC's jurisdiction. Section 9 of the Legislative Assembly Code of Conduct provides:

Upholding the Code

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

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

- 1.44 When the Independent Complaints Officer (ICO) position was agreed to in 2022, the Legislative Council Code was amended to clarify that a minor breach may be the subject of an investigation. Section 9 of the Legislative Council Code of Conduct now provides:

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.

Broderick recommendation

Broderick Review Recommendation 2.2

Power imbalance and accountability

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

Rationale for the recommendation

- 1.45** The Broderick Review found that 'there are many areas where substantial change is required, both to address the cultural drivers of bullying, sexual harassment and sexual misconduct and to improve pathways to reporting and support'.²³ Recommendation 2.2 is part of a number of recommendations in the framework for action that aim to 'address the cultural factors that contribute to bullying, sexual harassment and sexual misconduct in parliamentary workplaces'. In that section, the review notes that bullying, sexual harassment and sexual misconduct 'are the product of a range of cultural factors' that include unequal distributions of power and that access to reporting and support, as well as strong action to shift cultural dynamics, are required.²⁴ Recommendation 2.2 calls for clarity around what sort of conduct could constitute a potential breach of the Code and trigger an investigation.

Previous consideration by the Privileges Committee

- 1.46** The committee considered this recommendation as part of its 2022 review of the Code of Conduct. The committee's position was that conduct that can be investigated as a potential breach of the Code is already clear, as amendments to the Legislative Council Code made in March 2022 have clarified that behaviour constituting bullying or harassment is a breach of the Code that can be investigated by the Independent Complaints Officer. The committee noted further that the ICO's protocol, which was yet to be tabled at the time of the Broderick Review, would further clarify how the ICO will investigate matters.
- 1.47** The 'Independent Complaints Officer Protocols' document, tabled in November 2022, provides more detailed guidance on complaints to the Independent Complaints Officer,

²³ Broderick Review, p 74.

²⁴ Broderick Review, p 76.

including what conduct can be investigated by the ICO, who can make a complaint, the form of complaints, and confidentiality.²⁵

Issues for consideration

- 1.48** Given the Committee's 2022 review of the Code of Conduct, the amendments made to the Code and the Independent Complaints Officer protocol, the main issue for the Committee to consider is whether these have satisfactorily addressed the Broderick Review recommendation.

Code of Conduct: Bullying, sexual harassment and sexual misconduct

Current provisions

- 1.49** The Legislative Council Code of Conduct was amended in March 2022 to expressly prohibit bullying, harassment and sexual harassment. The current section 10 provides:

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.

- 1.50** Section 10 also includes commentary that members are also subject to section 22(b) of the Anti-Discrimination Act 1977 in relation to sexual harassment.

Broderick recommendation

Broderick Review Recommendation 3.1

Codes of Conduct

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

- 1.51** This recommendation calls for the Code to address bullying, sexual harassment and sexual misconduct more explicitly. According to the Broderick Review, the Code should explicitly prohibit these behaviours and place a positive obligation on members to create and maintain a

²⁵ Independent Complaints Officer Protocols, tabled 17 November 2022:
<https://www.parliament.nsw.gov.au/tp/files/83575/ICO%20Protocols%20-%2017%20November%202022.pdf>

safe workplace culture. The recommendation also calls for 'stronger accountability arrangements' and 'proportional penalties' for breaches. Alongside this recommendation, the report recommends further at 3.1(b) that the Parliamentary Executive Group review and update the Code of Conduct for Members' staff (2018) with particular attention to key barriers to reporting.

Rationale for the recommendation

- 1.52** Broderick Review Recommendation 3.1(a) is part of a suite of recommendations aimed at creating an 'enabling policy environment'. The Broderick Review noted that 'policy frameworks are a practical expression of an organisation's values and priorities and send powerful signals about the behaviours that are considered appropriate in that workplace'.²⁶ In this context, the Broderick Review identified a number of key gaps in the policy framework and pointed to the 'silence regarding harmful behaviours in the Codes of Conduct' as of particular concern.²⁷

Previous consideration by the Privileges Committee

- 1.53** As noted above, the Privileges Committee considered the Broderick Review recommendations relating to the Code as part of its 2022 Review of the Code of Conduct. In relation to this recommendation, the committee was satisfied that the Code already addresses bullying, sexual harassment and sexual misconduct as a result of amendments made in 2022. The committee noted that while it may consider the issue of penalties for breaches of the Code in future, there are established limitations at law on both Houses to punish members.²⁸

Code of Conduct: Safe reporting

Current provisions

- 1.54** The Code of Conduct does not explicitly provide protection from retribution for those reporting a breach of the Code. As noted above, section 9 'Upholding the Code' sets out the different mechanisms for investigation of a breach of the Code, which includes complaints to the Independent Complaints Officer. Confidential reporting to the ICO is provided for in the resolution establishing the position and the ICO protocols. Safe reporting could also be implied from section 10 of the Legislative Council Code which provides that members must treat all staff with dignity and respect.

Broderick recommendation

²⁶ Broderick Review, p 77.

²⁷ Broderick Review, p 77.

²⁸ Report No. 90 of the Privileges Committee, 'Review of Members' Code of Conduct (2022)', November 2022, p 8.

Broderick Review Recommendation 5.5

Protection from retribution

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

- 1.55** This recommendation falls under a suite of recommendations that aim to 'create a safe reporting environment that is human-centric and trauma-informed'. Recommendations in this section include the establishment of an independent reporting body and a wholesale review of the Independent Complaints Officer position.

Rationale for the recommendation

- 1.56** The Broderick Review highlighted the importance of a safe reporting environment, both for those who seek support and for the organisation as a whole. The report noted that confidence in the reporting systems at NSW parliament is extremely low, in part due to variable knowledge about reporting pathways. More fundamental, however, the report argued, are concerns that staff, in particular members' staff, will suffer retribution for making a report. The Broderick Review identified a 'clear need' to strengthen existing mechanisms and expand reporting options for staff. It also emphasised the importance of confidentiality in preventing retribution, stating: 'Concern about retribution in turn drives concern about confidentiality'.²⁹

Previous consideration by the Privileges Committee

- 1.57** In its 2022 Review of the Code of Conduct the Privileges Committee acknowledged 'it has a role in relation to some aspects of these issues' but questioned whether amending the Members' Code of Conduct would be the most appropriate way to achieve the recommendation's aims.³⁰

Issues for consideration

- 1.58** The protection of those who report bullying or sexual harassment from retribution is of the utmost importance. Whether or not the Broderick Review recommendation is the most effective way to enhance this, in its inquiry the committee could consider what role it plays should concerns as to retribution arise. For instance, past Privileges Committees have considered potential contempt arising from intimidation of witnesses to committee inquiries, and given the new framework of complaints handling, in which the committee has a role under the investigations protocol, it may have an expanded role in future.

²⁹ Broderick Review, p 80.

³⁰ Report No. 90 of the Privileges Committee, 'Review of Members' Code of Conduct (2022)', November 2022, p 8.

Part 2: Training and professional education for members

As well as recommending changes to the Members' Code of Conduct and related guidance material, ICAC made a number of recommendations to improve training and professional education for members.

In Operation Witney, ICAC recommended that training and guidance to members be updated with respect to specific issues – improper exercise of power, undue influence, and improper intermingling of public resources. In Operation Keppel, ICAC expanded on these, recommending that a permanent ongoing professional education program for members be introduced and specifying a number of issues this program should cover.

Operation Keppel, as well as the Broderick Review, also considered uptake of training, with ICAC recommending participation in training be incentivised and the Broderick Review recommending it be mandatory.

Training and professional education: Current offerings

- 1.59** A number of training programs and resources are available to members setting out their obligations under the Code of Conduct and ethical behaviour more generally. The Office of the Clerk runs an induction program for new members at the start of each parliament and periodically provides other advice to all members, such as reminders about their disclosure obligations. Additionally, members can access ongoing advice and guidance from the Clerks and the Parliamentary Ethics Adviser, as well as resources and an advisory service on entitlements in the Department of Parliamentary Services (DPS).
- 1.60** In terms of written resources, guidance materials are available on the Parliament's intranet, such as the Members' Guide, Members' Entitlements Handbook, and various guidelines and policies. DPS hosts a range of eLearning modules which members are strongly encouraged to complete, including modules for new members on the Code of Conduct, electoral funding and disclosure laws, and members' entitlements. At the end of 2023, DPS will be rolling out eLearning modules on public interest disclosures and holding sessions on 'Managing Challenging Interactions', available to all members and staff.
- 1.61** There is currently no formal ongoing professional education program for members however since June 2023, the NSW Parliament has run a series of professional development seminars. These are voluntary seminars that take place during lunchtime on Wednesdays when the Houses are sitting. Each seminar is presented by a different agency, with recent presenters including the Chief Commissioner of ICAC, Cyber Security NSW, the NSW Ombudsman, Parliamentary Counsel's Office, the NSW Information and Privacy Commission, and the Auditor-General. While these seminars are directed at members, they are open to all staff at Parliament and many of them are available to attend virtually and are recorded. Staff are invited and reminded via email and the President has reminded members each week via an announcement in the House.
- 1.62** In addition, the Privileges Committees of both Houses have educative functions and occasionally provide advice to and conduct seminars for members. The Independent Complaints Officer can also assist with educating members about their obligations under the Code of Conduct and disclosures regulation.

Training and professional education: ICAC recommendations

Operation Witney Recommendation 6

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

Operation Witney Recommendation 7

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

Operation Keppel Recommendation 10

That the Presiding Officers, NSW Parliament's designated committees and the relevant parliamentary departments devise a permanent ongoing professional education program for members.

Operation Keppel Recommendation 18

That the NSW Government, the Presiding Officers, NSW Parliament's designated committees and the relevant parliamentary departments ensure that the induction and ongoing education programs for ministers and members address the management of political interests when exercising public power. For example, members should be aware that public power to appoint to a public office must be exercised for a public purpose, not for a private or political purpose. Further, a public power cannot be exercised in relation to the location of a public facility because it will assist the re-election of a party member, rather than it being the proper place for it.

- 1.63** In Operation Witney, ICAC recommended that training and guidance material be updated with respect to particular issues: improper exercise of power and undue influence, and improper intermingling of public resources. In Operation Keppel, ICAC reiterated these recommendations and listed a number of obligations of public officials that should be covered as part of the induction of new members in addition to a permanent ongoing professional education program.

Training and professional education: Rationale for the recommendations

- 1.64** In Operation Witney, ICAC found that Mr Sidoti 'used his position to try and influence the exercise of the official functions of another sphere of government in pursuit of his private interests'.³¹ As well as attempts to improperly influence local councillors, ICAC were concerned about Mr Sidoti's use of public resources, such as his parliamentary email address and electorate office, to pursue his private interests. In ICAC's opinion, additional induction, as well as ongoing training and guidance about the topic, 'would assist members of Parliament in differentiating between improper influence and the proper exercise of power and privileges as well as the use of publicly funded resources bestowed on them by virtue of their public office'.³²
- 1.65** Operation Keppel Recommendation 11 reiterates and develops the recommendations of Operation Witney by specifying the various obligations and duties of public officials that ongoing training and education for members should include. Building on the recommendations in Operation Witney, these include improper influence and the use of public resources, but also includes (but is not limited to) confidential information, disclosure obligations, the use of gifts and enforcement mechanisms, as well as how to avoid, resolve and manage a conflict of interest.
- 1.66** In Operation Keppel, ICAC argued that training and guidance available to members was insufficient. It noted the lack of formal, ongoing professional education and training programs and the voluntary nature of existing options. Given the weaknesses identified with the existing training options for members, ICAC proposed that an expanded professional education program should be considered to support 'a culture of ethical behaviour' for elected public officials and their staff.³³
- 1.67** Failures to disclose interests and report suspected wrongdoing were a particular issue in Operation Keppel, where ICAC found that Ms Berejiklian failed to discharge her duty to report suspicions of corrupt conduct and, ICAC suggested, a lack of reporting from others allowed Mr Maguire's conduct to continue for six years. ICAC noted evidence that Mr Maguire had received formal advice and attended Department of Premier and Cabinet briefing sessions but did not recall receiving this training. Similarly, a number of public officials who gave evidence to the investigation had 'scant, if any' recollection of receiving training regarding the codes of conduct and gave varying answers to questions about how wrongdoing should be reported and managed.³⁴
- 1.68** Calling for effective education programs to provide guidance on the codes of conduct and members' obligations, ICAC argued that 'the values and conduct embodied in codes of conduct need to be integrated and implemented and become second nature'.³⁵

³¹ Operation Witney, p 179.

³² Operation Witney, pp 180-181.

³³ Operation Keppel vol 2, p 343.

³⁴ Operation Keppel vol 2, p 481.

³⁵ Operation Keppel vol 2, p 343.

- 1.69 While acknowledging that 'training and professional education might not affect the behaviour of some individuals who intentionally disregard and circumvent their obligations', ICAC nevertheless noted that many factors can contribute to failures by public officials to manage private interests, and that work culture and expectations of others are particularly important. In this context, ICAC made a number of recommendations 'aimed at strengthening training and education at NSW Parliament to drive an organisational culture that embraces ethical principles and values'.³⁶
- 1.70 Operation Keppel Recommendation 18 builds further on the recommendations of Operation Witney, recommending that education and training programs for members specifically address the management of political interests when exercising public power. The recommendation provides examples about the sorts of things members should be aware of when exercising public power, such as that public power must not be exercised for a private or political purpose, or to assist in the re-election of a party member.
- 1.71 Recommendation 18 arises from issues outlined in Operation Keppel about by-election commitments. ICAC noted that, given the evidence received in respect of that issue, members and Ministers would benefit from additional training in relation to the management of political objectives when exercising public power. According to ICAC, as this 'is a significant corruption risk for elected public officials', it should be the subject of ongoing professional education.³⁷

Training and professional education: Progress on implementation of ICAC recommendations

- 1.72 As noted above, a number of professional development seminars have been held for members in 2023. While clear progress on this recommendation has been made, it should be noted that ICAC has recommended the program be permanent and ongoing.
- 1.73 In terms of guidance material regarding the proper and improper exercise of power by members, undue influence and intermingling of public resources with personal interests, the 2020 amendments to the Members' Code of Conduct provide greater detail in relation to members' obligations, and further guidance is also provided in the Members' Guide (2023).
- 1.74 The Operation Witney recommendations were considered by the Privileges Committee as part of its 2022 Review of the Code of Conduct. The committee noted its support for these recommendations and, accordingly, recommended that specific training and guidance material about the proper and improper exercise of power by members and undue influence, and about the improper intermingling of public resources with personal interests, be updated in accordance with ICAC's findings in Operation Witney.

³⁶ Operation Keppel vol 2, pp 343-344.

³⁷ Operation Keppel vol 2, p 349.

Training and professional education: Bullying, sexual harassment and sexual misconduct

- 1.75 As noted in part 1 above, bullying, harassment and sexual harassment are prohibited under section 10 of the Legislative Council Members' Code of Conduct. These issues are also canvassed in the induction program for new members and in the Members' Guide.

Broderick Review Recommendation 4.1

Provision of best practice training on bullying, sexual harassment and sexual misconduct

- (a) PEG should commission and resource a revised program of training that is highly interactive, delivered by an independent expert and in line with best practice adult education. This should include: assessing the cohort's learning needs and tailoring the training to those needs and key knowledge gaps (eg tailored training for MPs and for senior staff in each MP's office regarding their leadership and management responsibilities); encompassing a wider range of learning styles (including scenarios and storytelling); and requiring follow up discussions and action planning in each office as a result of key learnings coming from the training.
- (b) As part of this suite of training, DPS should explore options for MPs and senior staff to hear survivors' stories in a psychologically safe environment, in order to deepen their understanding of the lived experience of those who have suffered harm in their workplace.

- 1.76 This recommendation calls for dedicated best practice training on bullying, sexual harassment and sexual misconduct. According to the recommendation, this training should, if possible, include firsthand accounts from survivors, in order to deepen members' understanding of the impact of these behaviours.
- 1.77 The Broderick Review noted that, while members and staff have several training options available, these could be strengthened. Training on harmful behaviours, along with the policy framework and support options, are currently embedded in the members' induction and annual training program. The Broderick Review recommended that, instead, these training sessions be redesigned to be more appropriate, effective and tailored to each separate cohort.
- 1.78 This recommendation can be read in the context of the Broderick Review recommendations around changes to leadership and policy frameworks given that, as noted in the report, 'policy frameworks need a range of supports to become a part of the fabric of an institution'.³⁸ Capability initiatives such as training 'play a key role' in setting expectations, increasing knowledge and building skills to respond to situations.

³⁸ Broderick Review, p 78.

Training and professional education: Incentivising participation

- 1.79 Training and professional education programs are currently voluntary for members. Both ICAC in Operation Keppel and the Broderick Review discussed options for incentivising participation in training.

Operation Keppel Recommendation 12

That the NSW Parliament should incentivise participation in education, for example, by developing standards and publishing attendance records.

Broderick Review Recommendation 4.3

Access to and uptake of training

- (a) PEG should explore options for making training on preventing and responding to bullying, sexual harassment and sexual assault, as well as employer responsibilities, mandatory for all who routinely work in Parliamentary workplaces, including MPs.

The Houses should explore options for making the training mandatory for MPs.

- 1.80 In suggesting an expanded professional education program (see discussion above), ICAC noted that the NSW Parliament 'could mandate staff training and promote members' participation in educational events by publishing minimum expectations for attendance, and by tracking, recording and publishing attendance records'.³⁹ It noted that that Commonwealth Parliament had established a register of members' training that is publicly accessible.⁴⁰
- 1.81 Similarly, the Broderick Review noted that 'access to training can be challenging for some cohorts, particularly Members of Parliament and staff working for Members'.⁴¹ It recommended that the parliament explore options for mandatory provision of training as part of a range of recommendations aimed at 'inform[ing], empower[ing], support[ing] and encourage[ing] everyone to speak up and take action on bullying, sexual harassment and sexual assault'.⁴² Alongside this recommendation, the review also recommended that completion of training should be monitored and a communications strategy be developed to increase awareness of policy expectations and reporting pathways and options.

³⁹ Operation Keppel vol 2, p 343.

⁴⁰ Operation Keppel vol 2, pp 342-3.

⁴¹ Broderick Review, p 79.

⁴² Broderick Review, p 78.

Additional Broderick Review recommendations

1.82 A number of additional recommendations from the Broderick Review relating to the Independent Complaints Officer will be considered by the Privileges Committee as part of its review of the Independent Complaints Officer system currently underway. These include recommendations relating to:

- reviewing complaints made to the ICO in the first year: recommendation 5.3(b)
- establishing an independent reporting body: recommendation 5.1
- developing principles and protocols for external investigations: recommendation 5.3(c)
- redesigning reporting pathways: recommendation 5.4
- auditing activities taken by members to create safe work environments: recommendation 6.2.

Discussion Questions

- 1.83** Comment from members is sought on each of the recommendations contained in this paper and as set out below, and in particular on whether implementing each recommendation would address the sort of conduct considered in Operations Witney and Keppel and whether alternative options would be preferred.

Members' Code of Conduct

Guiding principles

Operation Keppel Recommendation 1

That the Code of Conduct for Members and the NSW Ministerial Code of Conduct be amended to provide for a set of principles of conduct and guiding values addressing the:

- seven general principles of conduct which underpin public life developed by the United Kingdom's Committee on Standards in Public Life (and the 2021 descriptors to those principles)
- three guiding values of public trust, public interest and public duty.

Conflicts of interest

Operation Witney Recommendation 3

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

Operation Witney Recommendation 5

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

Operation Keppel Recommendation 2

That the NSW Parliament, in consultation with the Commission, develops a comprehensive framework applicable to members that addresses the avoidance, disclosure and management of conflicts of interest. The framework should provide members with practical guidance about how to avoid, disclose and manage common conflicts of interest.

Intermingling of parliamentary and personal resources

Operation Keppel Recommendation 3

That the NSW Parliament's designated committees review and amend the Code of Conduct for Members and the Members Entitlements Handbook (1 July 2022) in relation to the use of public resources, to clarify the limited circumstances in which it is acceptable to intermingle parliamentary duties with personal or private activities. In particular, this review should address the use of:

- parliamentary staff
- parliamentary offices
- stationery
- allowances relating to travel.

Friendship groups

Operation Keppel Recommendation 7

To further clarify that the Code of Conduct for Members applies to parliamentary friendship groups, it is recommended:

- (a) that the Presiding Officers strengthen the Parliamentary Friendship Groups Policy to specify that all activities undertaken by members under the auspices of a parliamentary friendship group must be in accordance with the Code of Conduct for Members and related guidelines and procedures
- (b) that the NSW Parliament's designated committees consider amending the Code of Conduct for Members to specifically mention that its application extends to activities involving parliamentary friendship groups.

Identifying breaches

Broderick Review Recommendation 2.2

Power imbalance and accountability

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

Bullying, sexual harassment and sexual misconduct

Broderick Review Recommendation 3.1

Codes of Conduct

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

Safe reporting

Broderick Review Recommendation 5.5

Protection from retribution

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

Training and professional education for members

Operation Witney Recommendation 6

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Bullying, sexual harassment and sexual misconduct

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- (b) As part of this suite of training, DPS should explore options for MPs and senior staff to hear survivors' stories in a psychologically safe environment, in order to deepen their understanding of the lived experience of those who have suffered harm in their workplace.

Incentivising participation

Operation Keppel Recommendation 12

That the NSW Parliament should incentivise participation in education, for example, by developing standards and publishing attendance records.

Broderick Review Recommendation 4.3

Access to and uptake of training

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The Houses should explore options for making the training mandatory for MPs.