

INQUIRY INTO REVIEW OF MEMBERS' CODE OF CONDUCT (2018)

Organisation: Audit Office of New South Wales

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The Director
Privileges Committee, NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Contact: Barry Underwood
Phone no: 9275 7101
Our ref: D1815249

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Dear Director

REVIEW OF MEMBERS' CODE OF CONDUCT 2018

Thank you for your communication of 1 June 2018 and the opportunity to make a submission on the inquiry into the Members' Code of Conduct together with any relevant aspects of the pecuniary interest disclosure regime for members under the Constitution (Disclosures by Members) Regulation 1983.

As a general principle, we promote efforts to improve transparency and disclosure in the government sector and thus support making the Register of Disclosures available on-line. We understand that this would also be consistent with the approach taken by the Legislative Assembly's Committee on Parliamentary Privilege and Ethics.

More specifically, I would like to appraise the committee of changes made to Australian Accounting Standard AASB124 'Related Party Disclosures' in 2016, an accounting standard that impacts pecuniary interest declarations, particularly for Cabinet Ministers at the whole-of-government level.

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

- all not for profit public sector entities are required to disclose related party transactions and balances in the same way as for-profit public sector and private sector entities
- Cabinet Members are considered to be related parties to each State-controlled agency.

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

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

It also means that as the auditor of the Total State Sector accounts and NSW Government agencies financial statements, my Office is required to assess evidence of Government and agencies compliance with AASB124.

The process for collecting such information and the extent, nature and timing of disclosures is included in documents prepared by NSW Treasury.

- a circular on 'Related Party Disclosures - TC16-12, December 2016'
[https://www.treasury.nsw.gov.au/sites/default/files/pdf/TC16-12 Related party disclosures.pdf](https://www.treasury.nsw.gov.au/sites/default/files/pdf/TC16-12%20Related%20party%20disclosures.pdf)
- Frequently asked questions: Implementing AASB 124 Related Party Disclosures
<https://www.treasury.nsw.gov.au/sites/default/files/2017-05/Frequently%20asked%20questions%20-%20Implementing%20AASB%20124%20Related%20Party%20Disclosures%20%28AASB%20124%29.pdf>

The Privileges Committee may also find the NSW Public Service Commission's (PSC) *Code of Ethics and Conduct for NSW government sector employee* useful. In particular the section on declaration of private interests.

<https://www.psc.nsw.gov.au/employmentportal/ethics-conduct/behaving-ethically/behaving-ethically-guide/section-2/the-code-of-ethics-and-conduct-for-nsw-government-sector-employees>

In relation to exception reporting being the primary means of updating the pecuniary interest register, I recommend that such registers are supported by annual declarations as well as exception reporting. While the committee's proposed changes may create some efficiency in administration, regular returns and sign offs act as a useful reminder and support accurate disclosures and record keeping. When commenting on a similar area in my recent Internal Controls and Governance Report to Parliament, I recommended that NSW government agencies should improve the way they manage conflicts of interest, particularly by requiring senior executives to make a conflict-of-interest declaration at least annually. Please refer to paragraph 5.2 on page 52 of the report -

<https://www.audit.nsw.gov.au/publications/latest-reports/internal-controls-and-governance-2017>

Should you require further information, please contact Barry Underwood, Director, Auditor-General's Office on 0403 073 664 or email barry.underwood@audit.nsw.gov.au.

Yours sincerely



Margaret Crawford
Auditor-General NSW