



MEMBERS' CODE OF CONDUCT

This Code of Conduct was adopted by the Legislative Council for the purposes of section 9 of the *Independent Commission Against Corruption Act 1988 (NSW)* on 24 March 2020. LC Minutes, 24 March 2020, item 53, pp 883-886.

Members' Code of Conduct—That this House adopt, for the purposes of section 9 of the Independent Commission Against Corruption Act 1988, the following Code of Conduct—

PREAMBLE

Members of Parliament acknowledge their responsibility to maintain the public trust placed in them by performing their duties with honesty and integrity, respecting the law and the institution and conventions of Parliament, and using their influence to advance the common good of the people of New South Wales.

THE CODE

1. Purpose of the Code

The purpose of this Code of Conduct is to assist all Members in the discharge of their parliamentary duties and obligations to the House, their electorates and the people of NSW.

The Code applies to Members in all aspects of their public life.

In complying with this Code, Members shall base their conduct on a consideration of the public interest, avoiding conflict between personal interest and their duties as a Member of Parliament. It does not apply to Members in their purely private and personal lives.

Members will not act dishonestly for their own personal gain, or that of another person.

It is recognised that some members are non-aligned and others belong to political parties. Organised political parties are a fundamental part of the democratic process. Participation in the activities of organised political parties is within the legitimate activities of Members of Parliament.

PROPER EXERCISE OF POWER

2. Improper influence

- (a) No member shall act as a paid advocate in any proceeding of the House or its committees.

- (b) A Member must not knowingly and improperly promote any matter, vote on any bill or resolution or ask any question in the Parliament or its Committees in return for any remuneration, fee, payment, reward or benefit in kind, of a private nature, which any of the following persons has received, is receiving or expects to receive as a consequence:
- (i) The Member;
 - (ii) A member of the Member's family;
 - (iii) A business associate of the Member; or
 - (iv) Any other person or entity from whom the Member expects to receive a financial benefit.
- (c) A Member must not knowingly and improperly use his or her influence as a Member to seek to affect a decision by a public official including a Minister, public sector employee, statutory officer or officer of a public body, to further, directly or indirectly, the private interests of the Member, a member of the Member's family, or a business associate of the Member.

3. Use of public resources

The use of public resources should not knowingly confer any undue private benefit on the Member or, on any other person, or entity.

Members must take reasonable steps to apply the public resources to which they are granted access according to any guidelines or rules about the use of those resources.

Commentary

There is a range of information available to Members to assist them in determining the accurate and appropriate use of resources including:

- *The Legislative Assembly Members' Guide;*
- *The Legislative Council Members' Guide;*
- *The Department of Parliamentary Services Members' Entitlements Handbook; and*
- *The Parliamentary Remuneration Tribunal's Annual Report and Determination of Additional Entitlements for Members of the Parliament of New South Wales.*

In addition it is open to any Member to seek advice on these matters from the Clerks of the House, Senior Parliamentary Officers, or the Parliamentary Ethics Adviser.

4. Use of confidential information

Information which Members receive in confidence in the course of their parliamentary duties should be used only in connection with those duties. It must never be knowingly and improperly used for the private benefit of themselves or any other person or persons.

5. Limitation on breach of Code

This code is not breached by reason of a benefit or interest that could be or was advanced or received by the persons set out in 2(b)(i)-(iv) by reason of them being a member of the public or a member of a broad class.

OPENESS AND ACCOUNTABILITY

6. Disclosure of interests

Members shall fulfil conscientiously the requirements of the House in respect of the Register of Disclosures by Members.

Commentary

The Constitution (Disclosures by Members) Regulation 1983 (the Regulation) requires that Members lodge regular returns, disclosing certain interests such as real property, interests and positions in corporations, income, debts and gifts.

The Regulation also requires that each Clerk compile and maintain a Register of Disclosures for their respective Houses. The purpose of the Register of Disclosures is to promote greater transparency, openness, and accountability in the parliamentary process.

Members' attention is drawn to the following sources of information and advice on compliance with the requirements of the Regulation:

- *Schedule 1 of the Regulation outlines the requirements for each type of interest to be disclosed, and gives examples as to how to make entries on the return;*
- *The respective guides for Members of the Legislative Assembly and the Legislative Council explain the requirements of the pecuniary interest disclosure regime in plain language, with examples where possible; and*
- *It is also open to any Member to seek advice on these matters from the Clerks of the House or the Parliamentary Ethics Adviser.*

In conjunction with the Regulation and this code, the following Standing Orders apply in relation to personal or pecuniary interests:

- *Legislative Assembly Standing Orders 176-7 and Legislative Council Standing Order 113(2) on voting in divisions; and*
- *Legislative Assembly Standing Order 276 and Legislative Council Standing Order 210(10) on participating in committee inquiries.*

7. Conflicts of interest

Members must take reasonable steps to avoid, resolve or disclose any conflict between their private interests and the public interest. The public interest is always to be favoured over any private interest of the Member.

Members shall take reasonable steps to draw attention to any conflicts between their private interests and the public interest in any proceeding of the House or its committees, and in any communications with Ministers, members, public officials or public office holders.

A conflict of interest does not exist where the Member is only affected as a member of the public or a member of a broad class.

Commentary

Members should be aware of the important distinction between disclosing an interest and having a conflict of interest.

There are certain pecuniary interests that must be disclosed on the Register of Disclosures although these may never come into conflict with a Members' duties. There are also interests that are not required to be disclosed on the Register of Disclosures but which could give rise to a conflict of interest if they are not managed appropriately.

It is open to any Member to seek advice on these matters from the Clerks of the House or the Parliamentary Ethics Adviser.

8. Gifts

- (a) Members must take reasonable steps to disclose all gifts and benefits received in connection with their official duties, in accordance with the requirements for the disclosure of pecuniary interests.
- (b) Members must not knowingly accept gifts that could reasonably be expected to give rise to a conflict of interest or could reasonably be perceived as an attempt to improperly influence the Member in the exercise of his or her duties.
- (c) Nothing in this Code precludes the giving or accepting of political donations in accordance with the Electoral Funding Act 2018.

Commentary

The Constitution (Disclosures by Members) Regulation 1983 (the Regulation) requires that Members lodge regular returns, disclosing certain interests such as real property, interests and positions in corporations, income, debts and gifts.

The Regulation also requires that each Clerk compile and maintain a Register of Disclosures for their respective Houses. The purpose of the Register of Disclosures is to promote greater transparency, openness, and accountability in the parliamentary process.

Members' attention is drawn to the following sources of information and advice on compliance with the requirements of the Regulation:

- *Schedule 1 of the Regulation outlines the requirements for each type of interest to be disclosed, and gives examples as to how to make entries on the return;*
- *The respective guides for Members of the Legislative Assembly and the Legislative Council explain the requirements of the pecuniary interest disclosure regime in plain language, with examples where possible; and*
- *It is also open to any Member to seek advice on these matters from the Clerks of the House or the Parliamentary Ethics Adviser.*

UPHOLDING THE CODE

9. Upholding the Code

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

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

This resolution has continuing effect unless and until amended or rescinded by resolution of the House.