



LEGISLATIVE COUNCIL

PRIVILEGES COMMITTEE

Review of Members' Code of Conduct (2022)



Report 90

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Privileges Committee

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Chair: Hon Peter Primrose MLC



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Terms of reference

1. According to section 72C(5) of the *Independent Commission Against Corruption Act 1988* and paragraph 2(c)(iv) of the resolution of the House establishing the Privileges Committee, the Chair informed the House that, on Wednesday 12 October 2022, the Committee resolved to adopt terms of reference to inquire into and report on 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.

The terms of reference were self-referred by the committee on 12 October 2022.¹

¹ *Minutes*, NSW Legislative Council, 13 October 2022, p 3722.

Committee details

Committee members

The Hon Peter Primrose MLC	Australian Labor Party	<i>Chair</i>
The Hon Revd Fred Nile MLC	Independent	<i>Deputy Chair</i>
The Hon Greg Donnelly MLC	Australian Labor Party	
Ms Cate Faehrmann MLC	The Greens	
The Hon Wes Fang MLC	The Nationals	
The Hon Scott Farlow MLC	Liberal Party	
The Hon Shayne Mallard MLC	Liberal Party	
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Chair's foreword

I am pleased to present this report of the Privileges Committee on its most recent review of the Code of Conduct for Members. The Privileges Committee is required to review the Code of Conduct for Members every four years under section 72C(5) of the *Independent Commission Against Corruption Act 1988* and the resolution of the Legislative Council appointing the committee.

In this review the committee considered changes to the Code that have been adopted since the last review and changes to the Code recommended by the Broderick review of workplace behaviours at New South Wales Parliament. The committee also considered corruption-prevention recommendations made by the Independent Commission Against Corruption in its report on the conduct of the member for Drummoyne and a recent resolution by the Legislative Council calling for members' interests disclosures to be made more accessible on the Parliament's website.

The committee's report includes a recommendation for changes to the Constitution (Disclosures by Members) Regulation 1983 to strengthen members' obligations concerning the disclosure of their interests in accordance with a recommendation by the Independent Commission Against Corruption. These changes include requiring the disclosure of interests in trusts and self-managed superannuation funds; requiring the disclosure of interests of immediate family members; replacing the current system of six-monthly disclosure returns with a requirement to disclose any changes to interests within 28 days; and improving the transparency of the registers of disclosures through the use of electronic databases. The report acknowledges that there should be consistency in the disclosure obligations applying to the members of both Houses and proposes that any changes to the Regulation should only be adopted if they are also supported by the Legislative Assembly's Standing Committee on Parliamentary Privilege and Ethics.

In addition to amendments to the disclosure Regulation, the report includes recommendations concerning:

- the incorporation of a definition of conflict of interest in the commentary in the Code of Conduct
- further exploration of the establishment of a mandatory conflicts of interests register
- improvements to the guidance material available to members about their obligations concerning conflicts of interest, improper influence and the use of publicly-funded resources
- the development of a searchable online format for members' interests disclosure returns and, in the interim, a review of the website design to make it easier for disclosure returns to be found.

The recommendations contained in this report will, if adopted, enhance the ethics and accountability framework applying to members by strengthening the Code of Conduct and the interests disclosure regime and ensuring that the guidance material provided to members is appropriate and up-to-date. Alongside these changes the committee itself intends to take a more active role in promoting members' awareness of the provisions of the Code in the new Parliament as is noted in the committee's report.

I thank the members of the committee for their work on this review and the secretariat for their support and expertise.

Hon Peter Primrose MLC
Committee Chair

Recommendations

- Recommendation 1** **12**
 That the New South Wales Government amend the Constitution (Disclosures by Members) Regulation 1983 in line with Recommendation 1 of the ICAC’s report entitled *Investigation into the conduct of the local member for Drummoyne*, provided such draft changes to the regulation are referred to this committee and the Legislative Assembly’s Standing Committee on Parliamentary Privilege and Ethics prior to making the regulation.
- Recommendation 2** **13**
 That the Clerk of the Parliaments review the Legislative Council Members’ Guide to ensure that it provides further guidance about members’ disclosure obligations pursuant to the Constitution (Disclosures by Members) Regulation 1983.
- Recommendation 3** **15**
 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.
- Recommendation 4** **16**
 That the committee in the new Parliament discuss further the proposal for a mandatory conflicts of interest register with the Independent Commission Against Corruption, the Independent Complaints Officer and the Parliamentary Ethics Adviser, and then seek the views of members on a specific proposal.
- Recommendation 5** **16**
 That the President and the relevant parliamentary departments 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 on how to take reasonable steps to avoid, resolve and disclose a conflict of interest, pending implementation of Recommendation 3.
- Recommendation 6** **18**
 That the President, the Clerk and the relevant sections of the Department of Parliamentary Services 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 the Independent Commission Against Corruption in its investigation into the conduct of the member for Drummoyne.
- Recommendation 7** **18**
 That the President, the Clerk and the relevant sections of the Department of Parliamentary Services 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 the Independent Commission Against Corruption in its investigation into the conduct of the member for Drummoyne.
- Recommendation 8** **21**
 That the Department of Parliamentary Services add to their scope of work for the Digital Transformation Project the development of technical solutions to allow members’ interests disclosure forms to be both lodged online and searchable.

Recommendation 9

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That the position of the Register of Disclosures on the Parliament's website be changed to make the Register easier to locate.

Chapter 1 Introduction

This chapter outlines the Privileges Committee's statutory obligation to review the Code of Conduct for Members, the outcomes of the previous review conducted by the committee in 2018 and the issues considered by the committee in the current review.

The obligation to conduct a review

- 1.1 Section 72C(5) of the *Independent Commission Against Corruption Act 1988* requires a 'designated committee' of the Legislative Council to review the Code of Conduct for Members at least once every four years. The Legislative Council has designated the Privileges Committee as its committee for the purposes of section 72C in each Parliament since 1995.² As the last review was in 2018 the current review is required by the end of 2022.
- 1.2 The *Independent Commission Against Corruption Act 1988* also requires a designated committee of the Legislative Assembly to review the Code of Conduct adopted by that House. The Legislative Assembly has designated its Standing Committee on Parliamentary Privilege and Ethics for that purpose.
- 1.3 Apart from the Code of Conduct the other key element of the accountability framework that applies to members' conduct is the Constitution (Disclosures by Members) Regulation 1983 which requires members to disclose their pecuniary and other interests in the Register of Disclosures. In previous reviews of the Code the committee has included consideration of aspects of the operation of the Regulation and the committee has continued this practice in the current review.

Outcomes of the 2018 review

- 1.4 In its 2018 review of the Code of Conduct the committee made recommendations concerning:
 - the adoption of a revised Code of Conduct which incorporated a range of substantive and structural changes
 - the amendment of the Constitution (Disclosures by Members) Regulation 1983 to require the disclosure of the interests of related parties and to replace the current system of six-monthly interests disclosure returns with a system of reporting any changes to interests as they occur
 - the publication of members' disclosure returns on the Parliament's website
 - enhancements to members' ethics training.
- 1.5 Most of these recommendations have since been implemented:
 - The revised Code recommended by the committee was adopted by the House in 2020.
 - The Register of Disclosures has been published on the Parliament's website.

² See, for example, the resolution of the Legislative Council establishing the Privileges Committee in the current Parliament: Legislative Council, *Minutes of proceedings*, 8 May 2019, pp 89-91.

- The Chair and Clerk of this committee delivered a seminar attended by almost half the members of the Legislative Council about the provisions of the revised Code of Conduct following the adoption of that Code in 2020.
- An educational resource – EdApp – was prepared providing members access via mobile phone to five minute modules on the Code of Conduct and ethics issues.

1.6 There has however been no change to the disclosure of interests requirements during this parliament.

Issues considered in this review

1.7 In the 2022 review the committee considered the following issues:

- the revised Code of Conduct adopted in 2020
- changes to the revised Code agreed to by the Legislative Council in 2022
- changes to the Code recommended by the Broderick review of workplace behaviours at New South Wales Parliament in 2022
- the Independent Commission Against Corruption's report on the conduct of the member for Drummoyne which includes recommendations concerning the Code of Conduct, the Constitution (Disclosures by Members) Regulation 1983 and guidance material for members
- a resolution of the Legislative Council adopted in March 2021 which called for the Register of Disclosures published on the Parliament's website to be made more accessible.

1.8 Chapter 2 of this report considers the changes to the Code adopted since the last review and those recommended by the Broderick review.

1.9 Chapter 3 considers the recommendations made by the Independent Commission Against Corruption and the Legislative Council's resolution concerning the need to improve the accessibility of the Register.

Chapter 2 Changes to the Code since the last review

Since the last review of the Code in 2018 a revised Code of Conduct for Members has been adopted by both Houses of Parliament, the Legislative Council has made amendments to the revised Code and further changes have been recommended by an independent review of workplace behaviours at New South Wales Parliament. This chapter provides an outline of these developments and the committee's views.

2020 and 2022 changes

Revised Code adopted in 2020

2.1 The adoption of a revised Code of Conduct in the 57th Parliament was the outcome of a process that had unfolded over a number of years. Key steps in that process are noted below:

- In 2014, in response to a recommendation by the Independent Commission Against Corruption, this committee and the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics recommended that a new clause be included in the Code of Conduct to address the issue of improper influence. However, the two committees differed in relation to the precise terms of the new clause which impeded progress towards the amendment of the Code.³
- In June 2018 the Legislative Assembly's Standing Committee on Parliamentary Privilege and Ethics recommended the adoption of a revised Code of Conduct for Members which incorporated a prohibition on the use of improper influence as well as other substantive changes.⁴
- In July 2018 this committee, taking account of the desirability of having a consistent Code of Conduct for the members of both Houses and submissions received to its own review, recommended that the revised Code developed by the Assembly committee be adopted by the Council, with some modifications⁵
- In March 2020, following further consultations, a uniform version of the revised Code was developed that was acceptable to the privileges committees of both Houses of Parliament and this revised Code was adopted by resolutions of the Legislative Council and the Legislative Assembly.⁶

2.2 The key changes incorporated in the revised Code include:

³ See Legislative Council, Privileges Committee, *Review of the Members' Code of Conduct 2018*, Report 76, November 2018, pp 1-2.

⁴ Legislative Assembly, Standing Committee on Parliamentary Privilege and Ethics, *Review of the Code of Conduct for Members*, Report 1/56, June 2018, Recommendation 1.

⁵ Legislative Council, Privileges Committee, *Review of the Members' Code of Conduct 2018*, Report 76, November 2018, Recommendation 1.

⁶ Legislative Assembly, *Votes and proceedings*, 5 March 2020, pp 575-579; Legislative Council, *Minutes of proceedings*, 24 March 2020, pp 865- 868.

- A new prohibition on members improperly using their influence to seek to affect decisions by public officials to further the member's private interests or the private interests of their family or business associates
- A new clause requiring members to fulfill conscientiously the requirements of the Register of Disclosures
- Expanded provisions relating to conflicts of interest including a new requirement for members to draw attention to any conflicts between their private interests and the public interest in any proceeding of the House or committees or in communications with public officials
- Commentary on particular provisions including information on sources of advice.

Legislative Council amendments to the revised Code

2.3 In March 2022 the Legislative Council and the Legislative Assembly adopted separate resolutions to establish the position of Independent Complaints Officer with a remit to investigate breaches of the Code of Conduct for Members falling short of serious and systemic corruption. While the resolutions adopted by the Houses were in generally similar terms, a notable difference was the inclusion of provisions amending the Code of Conduct in the resolution of the Legislative Council.

2.4 The process which led to the establishment of the new position and the related amendments to the Code is summarised below:

- In 2014, in response to a recommendation by the Independent Commission Against Corruption, this committee and the Legislative Assembly's Standing Committee on Parliamentary Privilege and Ethics recommended the creation of an independent officer to investigate alleged breaches of the Code of Conduct falling short of serious corruption. However, each committee recommended a somewhat different model for the investigator position.⁷
- In 2020 the Presiding Officers, and then the government leaders in both Houses, prepared a draft resolution for the appointment of a 'compliance officer' to investigate low level minor misconduct by members not related to conduct in the proceedings of the House or a committee. The draft resolution included a focus on receiving and investigating complaints of bullying and harassment by members, in recognition of the fact that there was no mechanism for dealing with complaints against members of Parliament in this area, unless the claims amounted to sexual harassment under the Anti-Discrimination Act 1977, or a criminal offence.
- In November 2020 each House referred the draft resolution to its privileges committee for inquiry and report. The privileges committees reported in May (this committee) and July 2021 (the Assembly committee), supporting the establishment of the compliance officer position. However, there were differences between the models proposed by each

⁷ Legislative Council, Privileges Committee, *Recommendations of the ICAC regarding aspects of the Code of Conduct for Members, the interest disclosure regime and a parliamentary investigator*, Report 70, June 2014, Recommendation 8; Legislative Assembly, Standing Committee on Parliamentary Privilege and Ethics, *Inquiry into matters arising from the ICAC report entitled "Reducing the opportunities and incentives for corruption in the State's management of coal resources"*, Report 2/55, July 2014, Recommendation 4.

committee including with regard to whether the Code of Conduct needed to be amended to support the new officer's role:

- The Council committee recommended that the Code should include a new clause articulating members' obligation to treat others with dignity and respect and a new provision clarifying that a minor breach of the Code may be the subject of an investigation by the compliance officer.⁸
 - The Assembly committee preferred the approach of including the ambit of the complaints the compliance officer could receive in the resolution of the House establishing the compliance office rather than in the Code of Conduct.⁹
- In August 2021 the President of the Legislative Council referred terms of reference to this committee requiring it to inquire into and report on resolution of the remaining differences between the two privileges committee reports. The committee reported in November 2021 recommending a revised resolution that more closely aligned with the recommendations of the Assembly committee. However, the revised resolution retained the amendments to the Code of Conduct proposed by the Council committee in its earlier report. The status of those amendments was articulated by the Council committee Chair as follows:

the Assembly committee believes existing legal obligations are sufficient to give the Office jurisdiction to receive complaints on bullying and harassment, while this committee believes that, whether or not this is the case, an amendment to the Code is important both to put this beyond doubt and to make a public statement of acceptable standards. This may be a matter for both Houses to resolve but it should certainly not prevent this important proposal from being implemented in the near future.¹⁰

- In March 2022 both Houses of Parliament adopted resolutions establishing the office of the Independent Complaints Officer¹¹ The Legislative Council's resolution included the amendments to the Code of Conduct recommended by the Council's Privileges committee in its November 2021 report.
- On 8 June 2022 the Council made a series of amendments to its resolution of 22 March 2022 which had the effect of eliminating most of the remaining differences in the resolutions of the Houses but did not disturb the changes to the Code of Conduct previously agreed to by the Council.¹²

⁸ Legislative Council, Privileges Committee, *Proposal for a Compliance Officer for the NSW Parliament*, Report 83, May 2021; Recommendations 1 and 6.

⁹ Legislative Assembly, Standing Committee on Parliamentary Privilege and Ethics, *Review of the proposed resolution for the establishment of a Parliamentary Compliance Officer*, Report 1/57, July 2021, Finding 1, Recommendation 4; Legislative Council, Privileges Committee, *Proposal for a Compliance Officer for the NSW Parliament No. 2*, Report 85, November 2021, p 3.

¹⁰ Legislative Council, Privileges Committee, *Proposal for a Compliance Officer for the NSW Parliament No. 2*, Report 85, November 2021, Chair's foreword, p vi.

¹¹ Legislative Council, *Minutes of proceedings*, 22 March 2022, pp 3039-3045; Legislative Assembly, *Votes and proceedings*, 29 March 2022, pp 1633-1639.

¹² Legislative Council, *Minutes of proceedings*, 8 June 2022, pp 3420- 3421.

- In August 2022, despite the remaining differences between the resolutions of the Houses, the Parliament's inaugural Independent Complaints Officer was appointed.¹³

2.5 The amendments to the Code of Conduct agreed to by the Legislative Council on 22 March 2022 provide for the incorporation of a new clause 10 and amendments to existing clause 9. The new clause 10 is as follows:

Clause 10

A Member must treat their staff and each other and all those working for Parliament in the course of their parliamentary duties and activities with dignity, courtesy and respect, and free from any behaviour that amounts to bullying, harassment or sexual harassment'

Commentary

Section 22(b) of the Anti-Discrimination Act 1977 makes it unlawful for a member to sexually harass a workplace participant or another member in the workplace, or for a workplace participant to sexually harass a member."

2.6 The amendments to clause 9 are highlighted below:

9. Upholding the Code

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

Breaches of this Code may result in actions being taken by the House in relation to the Member. A minor breach of this Code may be the subject of an investigation by the Independent Complaints Officer. A substantial breach of the Code may constitute corrupt conduct for the purposes of the Independent Commission Against Corruption Act 1988.¹⁴

Committee comment

2.7 The committee continues to support the changes adopted in the revised Code of Conduct and the amendments to that Code agreed to by the Legislative Council in March 2022. Any issues concerning further changes are considered in chapter 3 of this report in the context of examining recommendations by the Independent Commission Against Corruption. Aside from those issues the committee does not see a need for further changes to the Code at this stage, particularly as the changes in this Parliament are the first time since 2007 that the Code has been revised.

2.8 The committee does, however, believe that the committee needs to take more active steps to promote members' awareness and understanding of the provisions of the Code. This includes through mechanisms such as the seminars for members presented by the Chair following the adoption of the revised Code in 2020. The committee intends to pursue a more active role in educating members about the Code in the 58th Parliament.

¹³ Legislative Council, *Minutes of proceedings*, 11 August 2022, p 3587.

¹⁴ Legislative Council, *Minutes of proceedings*, 22 March 2022, pp 3039-3045.

Independent review of workplace behaviours at New South Wales Parliament

2.9 In July 2021 the Presiding Officers, Clerks and Chief Executive Officer (the Parliamentary Executive Group) commissioned an independent review into harmful behaviours including bullying, sexual harassment, and sexual misconduct at New South Wales Parliament workplaces. This review was undertaken by the former Sex Discrimination Commissioner Elizabeth Broderick.

2.10 The independent review made recommendations for reforms across a range of different domains including leadership priorities, cultural factors, the policy environment, reporting processes and monitoring.¹⁵ Among the recommendations were the following proposals concerning the Code of Conduct for Members:

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.¹⁶

3.1 Codes of Conduct

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.¹⁷

5.5 Protection from retribution

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.¹⁸

2.11 On 12 August 2022 the Parliamentary Executive Group released a Statement which included the following commitment to work towards a plan to respond to the independent review:

We intend to consult with the parliamentary community on the proposals that have been made, and to work collaboratively with you and your representatives on the implementation of an effective action plan in response to the report. Our task now is to work together.¹⁹

¹⁵ Elizabeth Broderick & Co., *Leading for Change: Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022* ('Broderick review'), p 74.

¹⁶ Broderick review, p 76.

¹⁷ Broderick review, p 77.

¹⁸ Broderick review, p 81.

¹⁹ New South Wales Parliament, *NSW Parliamentary Executive Group Statement on the Broderick Review*, 12 August 2022.

Committee comment

- 2.12** The committee notes the strong public support given by the Premier and the Leader of the Opposition following the release of the Broderick Review to work to ensure that Parliament is a safe workplace. The committee understands a thorough process of consideration and implementation of the recommendations of the Review is being undertaken by the Parliamentary Executive Group, and supports this as an appropriate way to deal with the issues raised. The committee will contribute to that process as required.
- 2.13** In relation to Recommendation 2.2 of the review, which calls for the committee to clarify the conduct of an MP that can be investigated as a potential breach of the Code, the committee believes that this is already clear and should be clarified further by the time the Independent Complaints Officer's investigation protocol is tabled in the House. The 2022 amendments by the Legislative Council to the Code of Conduct make clear that bullying and harassment is a breach of the Code of Conduct which can be investigated by the Independent Complaints Officer. The investigation protocol will clarify how the Officer will deal with matters which overlap with other agencies such as the Anti-Discrimination Board (when the matter deals with sexual harassment) or the Independent Commission Against Corruption (substantial breaches of the Code).
- 2.14** In relation to Recommendation 3.1, which calls for the Code to explicitly address bullying, sexual harassment and sexual misconduct, the committee notes that the Legislative Council's Code already addresses these matters as a result of the amendments agreed to by the House on 22 March 2022. The committee would encourage the Legislative Assembly to also amend its Code so that bullying, sexual harassment and sexual misconduct are explicitly addressed in the Assembly's Code. In regard to penalties for breaches, this is a matter for future privileges committees to consider in each instance, while noting there are clear legal limits on the powers of either House to 'punish' members.²⁰
- 2.15** In relation to Recommendation 5.5, which calls for the Code to include provisions that protect survivors and witnesses from retribution, the committee acknowledges that it has a role in relation to some aspects of these issues. In part, the Independent Complaints Officer framework would be the mechanism for such concerns to be brought before the committee. The committee will consider this recommendation during the implementation and follow up process initiated by the Parliamentary Executive Group, but does raise some initial concern as to whether the Code is the appropriate vehicle to achieve these undoubtably desirable outcomes.

²⁰ Stephen Frappell and David Blunt, *New South Wales Legislative Practice*, Federation Press, 2nd edition, 2021, pp 69-71.

Chapter 3 Reform of the Code of Conduct and the interests disclosure regime

This chapter considers recommendations made by the Independent Commission Against in its report entitled *Investigation into the conduct of the local member for Drummoyne* concerning the Code of Conduct, the interests disclosure regime and guidance material for members. It also considers a resolution adopted by the Legislative Council in March 2021 which called for the development of an online searchable format for the Register of Disclosures.

ICAC recommendations for reform

Investigation into the conduct of the member for Drummoyne

- 3.1** In July 2022 the Independent Commission Against Corruption reported on its investigation into the conduct of member for Drummoyne, Mr John Sidoti MP. The investigation was concerned with whether Mr Sidoti had improperly used his influence as a member of Parliament and had failed to disclose certain pecuniary interests.
- 3.2** In relation to the use of influence, the Commission found that Mr Sidoti had engaged in serious corrupt conduct by using his official position as a member of Parliament and local member to try to improperly influence local councillors to adopt positions that would benefit Mr Sidoti's family's property interests.²¹
- 3.3** In relation to the disclosure of interests, the Commission was satisfied that Mr Sidoti had failed to disclose his interest in certain real property contrary to his obligation under the Members' Code of Conduct and the Ministerial Code of Conduct. However, the Commission was not satisfied that this failure was sufficiently serious to constitute a substantial breach of the Members' Code of Conduct noting that the interest was held as one of four trustees of a superannuation fund and was somewhat indirect.²²
- 3.4** The Commission was also satisfied that Mr Sidoti had failed to disclose income his wife received by way of annual distributions from a family trust as he was required to do under the Ministerial Code from the time he was appointed as Parliamentary Secretary in October 2014. However, the Commission found that the Ministerial Code was not an applicable code of conduct for the purposes of section 9(1)(d) of the *Independent Commission Against Corruption Act 1988* in relation to a parliamentary secretary.²³
- 3.5** Informed by the outcomes of the investigation the Commission made 15 corruption prevention recommendations including eight recommendations specifically relevant to the New South Wales government and the Parliament. These eight recommendations concern:
- the Register of Disclosures established under the Constitution (Disclosures by Members) Regulation 1983

²¹ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 6.

²² ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 35-37.

²³ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 36-37.

- the obligations of members of Parliament concerning conflicts of interest
- the obligations of members of Parliament concerning improper influence and use of public resources
- the enforceability of the Ministerial Code of Conduct under the *Independent Commission Against Corruption Act 1988* in relation to parliamentary secretaries.

3.6 The matters addressed in the Commission's report in relation to these issues are summarised below.

The Register of Disclosures

3.7 The Commission's report highlights a number of limitations in the scope of the interests that are required to be disclosed in the Register of Disclosures. For example, the report notes that Mr Sidoti was not obliged to disclose interests in certain properties that he held as the beneficiary of a family trust, despite the suggestion in the Members' Guide that 'interests held in family trusts also, on the face of it, fall within the disclosure requirements' concerning real property.²⁴ The report also states that Mr Sidoti was not obliged to disclose income the trusts derived from the properties in the absence of the income being distributed.²⁵

3.8 In light of the limited scope of the Register and an analysis of disclosure requirements in other Australian Parliaments the Commission's report proposes a series of reforms to the interests disclosure regime in New South Wales.

3.9 Firstly, the report proposes that members should be required to disclose interests in trusts and self-managed superannuation funds in the Register:

It is concerning that the current system of disclosures places limited obligations on members of Parliament who are discretionary beneficiaries of family trusts just because their interest (or the interest of a family member) in the assets of a trust or other entity have not crystallised in a legal sense. Details of interests in trusts, including discretionary trusts and SMSF [self managed superannuation funds], should be disclosed as a standalone item.²⁶

3.10 In support of this proposal the report notes that section 14A(1) of the *Constitution Act 1902* expressly authorises the making of regulations which require the disclosure of interests in regard to trusts²⁷ and of 'any other direct or indirect benefits, advantages or liabilities' specified in the regulation.²⁸ The report also notes that four Australian Parliaments have adopted requirements for members to disclose interests in trusts and entities such as superannuation funds in a register.²⁹ The report further notes that the Commission and this

²⁴ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 26-29; pp 173-174; p 175.

²⁵ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 28.

²⁶ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 176.

²⁷ *Constitution Act 1902*, section 14A(1)(a)(vii).

²⁸ *Constitution Act 1902*, section 14A(1)(a)(xii); ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 173.

²⁹ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 174-176.

committee have previously recommended the disclosure of family trusts in the Register and that this committee has also recommended that private superannuation funds be disclosed.³⁰

3.11 Secondly, the report argues that members should be required to disclose the interests of family members in the Register:

[M]embers of Parliament should not be able to circumvent disclosure obligations by ensuring their family members hold assets or by transferring assets to family members. NSW's disclosure regime regarding various third-party interests needs to expand to specifically require the disclosure of the interests of family members.³¹

3.12 In support of this proposal the report notes that there are requirements for members to disclose family interests in a register in a number of other Australian jurisdictions.³² It also notes previous inquiries in which the disclosure of family interests has been considered by the Commission, this committee and the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics.³³

3.13 Thirdly, the report proposes that the current system of primary, ordinary and supplementary disclosure returns, which effectively means that members are required to disclose their interests every six months, should be replaced by a system of continuous reporting in which members report any change in their interests within 28 days of the change occurring.³⁴ The report states that similar systems are in place in three Australian jurisdictions where members are required to disclose changes to their interests within one month or less.³⁵

3.14 Finally, the report notes that full online access to the register of disclosures is provided in two Australian jurisdictions, the Commonwealth and Queensland, while in other jurisdictions including New South Wales only partial online access is allowed.³⁶ In light of these precedents the report argues that the transparency of the Register in New South Wales should be improved by the use of electronic databases.

3.15 Recommendation 1 of the report includes proposals for reform concerning trusts and superannuation funds, family interests, continuous disclosure and electronic databases:

RECOMMENDATION 1

That the NSW Government, in consultation with NSW Parliament's Legislative Assembly Privilege and Ethics Committee and Legislative Council Privileges Committee ("NSW Parliament's designated committees"), amends the Constitution (Disclosures by Members) Regulation 1983 to require:

- the details of interests in trusts, including discretionary trusts and self-managed superannuation funds, to be disclosed as a standalone item

³⁰ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 174.

³¹ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 176.

³² ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 174-176.

³³ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 174.

³⁴ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 15, p 176.

³⁵ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 175-176.

³⁶ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 175-176.

- the details of real property held by discretionary trusts, where a member of Parliament is a potential beneficiary, to be disclosed
- the details of the interests of immediate family members to be disclosed (noting the option to limit access to certain information for privacy reasons)
- the dispositions of interests to family members or other associates to be disclosed
- ongoing (within 28 days) requirements to update disclosures of interests including for members leaving Parliament
- electronic databases to improve transparency of the registers.

3.16 Recommendation 2 proposes that the guidance material provided to members about their disclosure obligations should be updated pending the implementation of Recommendation 1:

RECOMMENDATION 2

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 is updated to provide details about their disclosure obligations pursuant to the Constitution (Disclosures by Members) Regulation 1983 (pending implementation of recommendation 1).

Committee comment

3.17 The committee notes that most if not all of the matters addressed in the Commission's Recommendation 1 have previously been supported by this committee in past reviews of the Code. The committee continues to support requirements for the disclosure of interests in trusts and superannuation funds, the disclosure of the interests of immediate family interests and continuous disclosure and also supports the use of electronic databases to improve the transparency of the Register. The committee notes, however, that there should be consistency in the disclosure obligations applying to the members of both Houses and considers that any changes should only be adopted if they are also supported by the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics.

3.18 The committee notes the particular privacy concerns around the recommendation to disclose interests of immediate family members, so that any specific change in the Regulation in this area will need to be the subject of scrutiny by this committee. This can best be achieved by the Government referring a draft regulation to this committee and the Assembly committee prior to making the regulation.

3.19 The committee therefore recommends:

Recommendation 1

That the New South Wales Government amend the Constitution (Disclosures by Members) Regulation 1983 in line with Recommendation 1 of the ICAC's report entitled *Investigation into the conduct of the local member for Drummoyne*, provided such draft changes to the regulation are referred to this committee and the Legislative Assembly's Standing Committee on Parliamentary Privilege and Ethics prior to making the regulation.

- 3.20** The committee also notes that the Commission’s investigation has highlighted the need for greater guidance for members about the nature of their disclosure obligations under the Constitution (Disclosures by Members) Regulation 1983. In particular, the committee believes that it is important that the Legislative Council Members’ Guide contain further guidance about members’ disclosure obligations pursuant to the Constitution (Disclosures by Members) Regulation 1983. The committee therefore recommends:

Recommendation 2

That the Clerk of the Parliaments review the Legislative Council Members’ Guide to ensure that it provides further guidance about members’ disclosure obligations pursuant to the Constitution (Disclosures by Members) Regulation 1983.

Conflict of interest obligations for members of Parliament

- 3.21** The Commission’s report notes that the revised Code of Conduct adopted in March 2020 requires members to take reasonable steps to avoid, resolve or disclose any conflicts of interest and contemplates that disclosure will occur at the relevant time (rather than relying on disclosure of the relevant interest in the Register of Disclosures).³⁷ However, the report points out that the Code does not include a definition of conflict of interest, guidance on what ‘reasonable steps’ ought to be followed to avoid, resolve or disclose conflicts of interest on an ad hoc basis, or any indication of what mechanisms are in place to collate any such ad hoc disclosures.³⁸ The report also states that there is a lack of uniformity in the conflicts of interest disclosure requirements that apply under the Members’ Code and the Ministerial Code and that this can potentially create confusion for parliamentary secretaries and ministers who are subject to both codes.³⁹
- 3.22** The report also sets out the Commission’s own understanding of the nature of a conflict of interest which makes it clear the test to be applied is an objective one based on what a reasonable person might perceive:

The Commission’s position is that a conflict of interest exists when a reasonable person might perceive that a public official’s personal interest(s) could be favoured over their public duties. It means that a conflict of interest arises if the relevant personal interest(s) could be improperly favoured over public duties. The test is an objective, or “reasonable person” test, as conflicts of interest arise where a reasonable person might perceive that a public official’s personal interest could be favoured over their public duties.⁴⁰

- 3.23** In addition to identifying gaps in the provisions of the Code, the report raises concerns about the scope of the conflicts of interest provisions of the Constitution (Disclosures by Members) Regulation 1983. The Regulation provides that members may at their discretion disclose

³⁷ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 178.

³⁸ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 179.

³⁹ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 179.

⁴⁰ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 177.

matters the member considers might appear to raise a conflict with their public duty but does not require members to disclose conflicts of interest in the Register. This contrasts with the position in other Australian jurisdictions⁴¹ where members are required to disclose conflicts of interest in a register.⁴² The report argues that the creation of a register for conflicts of interest in New South Wales would promote accountability, facilitate enforcement and bring consistency with arrangements under the Ministerial code:

A centralised conflicts of interest register for members of Parliament is an appropriate mechanism to promote accountability and transparency. A centralised register would assist others in determining whether a member of Parliament has disclosed a conflict of interest. Similar to the register established by the Ministerial Code, it ought to capture conflicts of interest that occur on an ad hoc basis; for example, at a meeting with public officials, as these could be registered in writing afterwards.⁴³

3.24 The report goes on to highlight the importance of members having access to appropriate guidance in relation to their conflicts of interest obligations. The reports notes that guidance is currently provided through the Members Guide, training initiatives undertaken by the Parliament and the role of the Parliamentary Ethics Adviser. However, it suggests that the information provided in the Members' Guide is not as extensive as it should be.

[The Members' Guide] points out that there is a general conflict of interest disclosure obligation in clause 1 of the Members' Code "to declare any conflict of interest whenever it arises in the execution of their office, including in Parliament". Apart from some commentary regarding the distinction between disclosing an interest and having a conflict of interest, and advice about where to seek advice, the Members' Code, revised in 2020, provides no further guidance.⁴⁴

3.25 To address these concerns the report recommends that:

- a comprehensive definition of conflict of interest be included in the Code of Conduct which takes account of relevant definitions in the Ministerial Code
- the Constitution (Disclosures by Members) Regulation 1983 be amended to provide for the mandatory registration of conflicts of interests via a separate register of disclosures
- pending implementation of these measures the guidance material for members about their conflict of interest obligations under the Code should be updated.

3.26 These recommendations are reproduced below:

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.

⁴¹ The Commonwealth, Queensland, Victoria and South Australia.

⁴² ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 174-176. For example, in Victoria members must disclose any other interests that could cause a conflict of interest. In South Australia disclosure requirements extend to any other substantial interest the member considers might appear to raise a material conflict between the member's private interest and the public duty.

⁴³ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 179.

⁴⁴ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 177.

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.

RECOMMENDATION 4

That the NSW Government, in consultation with NSW Parliament's designated committees, amends the Constitution (Disclosures by Members) Regulation 1983 to provide for the mandatory registration of conflicts of interest by members of Parliament via the creation of a register for this purpose (noting the option to limit access to certain information for privacy reasons).

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).

Committee comment

- 3.27** The committee notes that induction programs for new members, training initiatives led by the Clerk of the Parliaments and advice provided by the Parliamentary Ethics Adviser explain the nature of conflicts of interest in more detail than appears in the Code. However, the committee accepts the Commission's criticisms of the limitations of the Code in this area and accepts that there is room for improvement. To address these concerns the committee supports the inclusion of a definition of conflicts of interest in the commentary section of the Code that takes account of the Commission's views.
- 3.28** The committee therefore recommends:

Recommendation 3

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.

-
- 3.29** In relation to the Commission's Recommendation 4, the committee notes that the mandatory registration of conflicts of interest via the creation of a separate register would be a significant change that would have implications for members and the Parliamentary administration. The committee also notes that this inquiry invited submissions from members on the Commission's recommendations but did not receive any direct response from members. While the committee is open to the change proposed by the Commission we are concerned about taking such a step when we are uncertain of the views of members of the House in having a mandatory requirement which currently only applies to Ministers. In the new Parliament we would like to continue discussions with the Commission, the Independent Complaints Officer and Parliamentary Ethics Adviser in relation to this issue.

Recommendation 4

That the committee in the new Parliament discuss further the proposal for a mandatory conflicts of interest register with the Independent Commission Against Corruption, the Independent Complaints Officer and the Parliamentary Ethics Adviser, and then seek the views of members on a specific proposal.

3.30 In relation to the Commission's Recommendation 5, the committee supports the provision of greater guidance for members on how to manage conflicts of interest. This should include guidance on what steps can be taken to avoid or resolve a conflict of interest and how conflicts of interest that arise in communications with public officials can be disclosed at the time. The committee notes that the preparation of guidance material in relation to these matters can proceed whether or not the committee's Recommendation 3 is implemented.

3.31 The committee therefore recommends:

Recommendation 5

That the President and the relevant parliamentary departments 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 on how to take reasonable steps to avoid, resolve and disclose a conflict of interest, pending implementation of Recommendation 3.

Clarifying improper influence and the use of public resources

3.32 The Commission's report notes that the revised Code of Conduct adopted in March 2020 includes a specific prohibition against the use of improper influence (clause 2(c)). The report states that this prohibition 'fits squarely with Mr Sidoti's conduct as exposed in this investigation' and that had the revised Code applied at the time that was the subject of the investigation, Mr Sidoti's conduct would have constituted a substantial breach of the Members' Code.⁴⁵ As it stood, the Commission found that Mr Sidoti's conduct met the definition of corrupt conduct in section 9(1)(a) of the *Independent Commission Against Corruption Act 1988* (conduct that could constitute or involve a criminal offence)⁴⁶ rather than section 9(1)(d) (conduct that constitute or involve a substantial breach of an applicable code of conduct).

3.33 In light of the strength of the new prohibition the report does not propose further changes to the terms of the Code in relation to improper influence. However, the report argues that there is a need to expand training and guidance initiatives for members in relation to their obligations in this area:

⁴⁵ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 180.

⁴⁶ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 168.

Additional induction, as well as ongoing training and guidance about this topic, would assist members of Parliament in differentiating between improper influence and the proper exercise of power and privileges.⁴⁷

3.34 The report also calls for greater training and guidance in relation to the proper use of the publicly funded resources that are provided to members of Parliament. The need for such a measure is highlighted by the Commission's findings that Mr Sidoti's use of his electorate office and parliamentary email were aspects of his attempts to improperly influence local councillors to adopt positions that would benefit his family's interests.⁴⁸

3.35 To address these concerns the report recommends that:

- training and guidance material be developed or updated about the proper and improper exercise of power by members and undue influence
- training and guidance material be developed or updated about the improper intermingling of public resources with personal interests.

3.36 These recommendations are reproduced below:

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.

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.

Committee comment

3.37 The committee notes that we have recently met with the Chief Commissioner of the Independent Commission Against Corruption and welcome his proactive approach to developing ways of promoting awareness and understanding of the ethical obligations of members. The committee looks forward to working more closely with the Commission in relation to these issues, including with regard to the review of guidance material provided to departing members and new members in view of the forthcoming election in 2023. In the meantime the committee records its support for the Commission's recommendations concerning the need for guidance in relation to improper influence and the use of public resources, and recommends:

⁴⁷ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 180-181.

⁴⁸ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 180.

Recommendation 6

That the President, the Clerk and the relevant sections of the Department of Parliamentary Services 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 the Independent Commission Against Corruption in its investigation into the conduct of the member for Drummoyne.

Recommendation 7

That the President, the Clerk and the relevant sections of the Department of Parliamentary Services 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 the Independent Commission Against Corruption in its investigation into the conduct of the member for Drummoyne.

Parliamentary secretaries and the Ministerial Code

- 3.38** The Commission's report states that, as a parliamentary secretary for the majority of the period investigated by the Commission, Mr Sidoti was obliged to comply not only with the ethical standards and disclosure regime applicable to members of Parliament but also with the ethical standards, internal governance practices and disclosure requirements of the Ministerial Code. However, the report questions whether the Ministerial Code is enforceable under the *Independent Commission Against Corruption Act 1988* in relation to parliamentary secretaries.⁴⁹
- 3.39** Under section 9(1)(d) of the Act, corrupt conduct includes, in the case of conduct of a Minister of the Crown or a member of a House of Parliament, a substantial breach of an 'applicable code of conduct'. Under section 9(3)(a), an applicable code of conduct is, 'in relation to a Minister of the Crown, a ministerial code of conduct prescribed or adopted for the purposes of this section by the regulations'. The Ministerial Code has been adopted for the purposes of section 9 via the Independent Commission Against Corruption Amendment (Ministerial Code of Conduct) 2014.⁵⁰ However, as section 9(3) only refers to 'a Minister of the Crown', substantial breaches of the Ministerial Code by a parliamentary secretary do not constitute corrupt conduct and the only applicable Code for parliamentary secretaries is the Members' Code.⁵¹
- 3.40** To address this potential jurisdictional gap the report recommends that the Act be amended to clarify that an applicable code of conduct in relation to a parliamentary secretary is a ministerial code of conduct prescribed or adopted for the purposes of section 9(3):

RECOMMENDATION 8

⁴⁹ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, pp 16-18.

⁵⁰ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 16.

⁵¹ ICAC, *Investigation into the conduct of the local member for Drummoyne*, July 2022, p 182.

That the NSW Government considers the introduction of amending legislation to clarify that an applicable code of conduct in relation to a parliamentary secretary is a ministerial code of conduct prescribed or adopted for the purposes of s 9(3) of the ICAC Act.

Committee comment

- 3.41 The committee understands the logic of the Commission's Recommendation 8 but believes that it is beyond the role of this committee to make a specific recommendation about the Ministerial Code. The task that has been allocated to the Privileges Committee is to review the Members' Code of Conduct not the Ministerial Code. However the committee supports the Recommendation and encourages the Executive to amend the Ministerial Code.

Legislative Council resolution to enhance online access to the Register of Disclosures

- 3.42 As noted in chapter 1, in 2018 this committee recommended that the Register of Disclosures by members of the Legislative Council be made available on the Parliament's website. Following the tabling of the committee's report, the Clerk of the Parliaments began publishing the Register of Disclosures online. The practice of publishing the Register on the website has continued to be followed since then.
- 3.43 The procedure that is applied in relation to the publication of the Register on the website is described below:
- Members' interest disclosure returns are either handwritten or filled out electronically, with a large majority being handwritten and delivered in person to the Clerk's office.
 - The Register includes all completed returns, which are either handwritten or compiled into one pdf, in alphabetical order by surname, and with a cover page for each member.
 - The document is made searchable, however, adobe software does not recognise handwritten text.
 - Once compiled, the Clerk presents the Register to the President for tabling in the House on the next sitting day.
 - Once tabled the Register is published on the tabled papers section of the Parliament's website as a statutory report.
 - The document is accessed by navigating to the tabled papers database and searching for the document or navigating to the date it was tabled in the House and locating it amongst other tabled papers for that day.⁵²
- 3.44 The practice of publishing the Register online begun by the Clerk in 2018 aligned with practice in the Legislative Assembly whereby a compiled pdf of members' disclosures is published as a statutory report on the tabled papers section of the Parliament's website.⁵³

⁵² Legislative Council Procedure Office, *Briefing paper – Register of disclosures of Members of the Legislative Council*, April 2021, p 1.

⁵³ Legislative Council Procedure Office, *Briefing paper – Register of disclosures of Members of the Legislative Council*, April 2021, p 1.

3.45 On 17 March 2021 the Legislative Council agreed to a motion moved by the Hon Mark Pearson, on behalf of Mr Shoebridge, requiring that the President and the Clerk develop a system so that pecuniary interest returns are available online in a readily searchable format. The terms of the motion were as follows:

(1) That the President and the Clerk work to develop a system so that Legislative Council members' pecuniary interest returns are available online, via the Parliament website, in a readily searchable format, in time for the next round of disclosures.

(2) That all parties commit to work together to make it compulsory to have an online searchable format for pecuniary interest disclosures for all members in both Houses a requirement under the Constitution (Disclosures by Members) Regulation 1983.⁵⁴

3.46 In April 2021 the Legislative Council Procedure Office prepared a briefing paper which reviewed practices in other Houses of Parliaments with a view to informing the development of a system for publishing members' returns that would meet the requirements of the House's resolution. A copy of the briefing paper is attached to this report at Appendix 1.

3.47 The comparative review contained in the briefing paper highlighted the fact that some Australian Parliaments publish members' disclosure returns on a dedicated page of the Parliament's website rather than in the general tabled papers section and provide access to disclosures in a searchable format.

3.48 Informed by this comparative review the briefing paper proposed that consideration be given to the following measures:

- The Legislative Council Procedure Office, together with the Department of Parliamentary Services (IT Services Branch), could investigate options for a technical solution that allows online forms to be lodged by members, published by the Clerk and made available in searchable format on the website. However, given the large number of PIMS and IT projects currently underway, this may not be a quick solution.
- An interim solution could be to make the pecuniary interests available in a more prominent position on the website, such as under the Members tab or in the mega menus.
- The Privileges Committee could examine the development of a system that allows for online lodgement and access to the Register, this may include looking into the following areas:
 - administrative and technological processes of other jurisdictions and potentially other websites that provide for the online completion of forms and access to the information gathered, including the NSW Electoral Commission.
 - the introduction and application of these practices to both Houses of NSW Parliament, and
 - any potential procedural outcomes requiring resolution by the House.⁵⁵

⁵⁴ Legislative Council, *Minutes of proceedings*, 17 March 2021, p 2005.

⁵⁵ Legislative Council Procedure Office, *Briefing paper – Register of disclosures of Members of the Legislative Council*, April 2021, p 2.

Committee comment

- 3.49** The committee notes that the House has clearly expressed a view that it wants the Register to be more accessible online. We understand that there are technical and funding issues which means that this may take some time to achieve. As an interim step we believe that the website design should be reviewed to make it easier for members' disclosure returns to be found. The committee therefore recommends:

Recommendation 8

That the Department of Parliamentary Services add to their scope of work for the Digital Transformation Project the development of technical solutions to allow members' interests disclosure forms to be both lodged online and searchable.

Recommendation 9

That the position of the Register of Disclosures on the Parliament's website be changed to make the Register easier to locate.

Appendix 1 Briefing paper

BRIEFING PAPER – REGISTER OF DISCLOSURES OF MEMBERS OF THE LEGISLATIVE COUNCIL

Background

On 17 March 2021 the House agreed to a motion moved by Mr Pearson, on behalf of Mr Shoebridge, relating to the publication of pecuniary interest disclosures made by members as a requirement under the Constitution (Disclosures by Members) Regulation 1983. The resolution requires that the President and the Clerk develop a system so that pecuniary interest returns are available online in a readily searchable format, in time for the next round of disclosures.

The Legislative Council Procedure Office has begun reviewing current practices of other Houses of Australian Parliaments, in order to inform the development of a system that allows for members and other interested stakeholders to readily access this information.

This briefing paper first starts with an overview of the current practice in New South Wales followed by those of a selection of other Parliaments and proposed next steps. Appendix A provides examples of how other Parliaments provide access to pecuniary interest disclosures on their websites.

NSW Parliament: Current Practice

Legislative Council

In 2018, the Privileges Committee conducted a review of the Members' Code of Conduct, which included a review of access to returns made under the Regulation. The Committee recommended that the Register of Disclosures (the Register) be made available online, a practice which had already been adopted in the Assembly. Following tabling of the Committee's report, the Clerk began publishing the Register online.

Summarised below is the practice that has been in place in the Legislative Council since 2018:

- The returns are either hand written or filled out electronically, with a large majority being hand written and delivered in person to the Clerk's office.
- The Register includes all completed returns compiled into one pdf, in alphabetical order by surname, and with a cover page for each member.
- The document is made searchable, however adobe software does not recognise handwritten text.
- Once compiled, the Clerk presents the Register to the President for tabling in the House on the next sitting day.
- Once tabled the Register is published on the tabled papers section of the Parliament's website as a statutory report.
- The document is accessed by navigating to the tabled papers database and searching for the document or navigating to the date it was tabled in the House and locating it amongst other tabled papers for that day.

Legislative Assembly

Publication of the Register in the Legislative Assembly aligns with current practice in the Legislative Council, whereby a compiled pdf of members disclosures is published as a statutory report on the tabled papers section of the Parliament's website.

Practice in other Houses of Australian Parliaments

Preliminary research has highlighted a range of potential options available to the Legislative Council to improve online access to the Register. Key features from the public websites of other jurisdictions are summarised below (see Appendix A for images of their webpages):

Parliament	Practice
Australian House of Representatives and the Senate	Both Houses have a dedicated page for the 'Register of members'/Senators' interests'. The webpage includes a list of all current members, and next to each name is a link to a pdf consisting of all returns received

	from the member. Listed underneath is the date the register was last updated. The form for each member is in a searchable format. Updates to the Register are added to the linked pdf. Both webpages provide links to the Registers of previous Parliaments, tabled volumes, forms and guidelines.
Legislative Assembly for the Australian Capital Territory	The Assembly, on its <i>'Ethics and accountability'</i> webpage, has a dedicated <i>'Declarations of Members' Interests'</i> section which lists all current members and links to a pdf of their most recent return. The form is handwritten and not searchable.
Legislative Assembly of the Queensland Parliament	The Assembly has published the <i>'Register of Members' Interests'</i> online on its own dedicated webpage. The Register is published as one pdf, with all forms being in an electronic format and searchable. Registers of earlier Parliaments are published on the tabled papers section of the website.
Parliament of Tasmania: House of Assembly and Legislative Council	Both Houses have a dedicated webpage for the <i>'Register of members' interests'</i> , which is filtered by year and includes a list of all current members. Next to each name is a link to a pdf consisting of primary returns received from the member for that year. Listed on the page is the date the Register was last updated. Some returns are in a searchable format, while others appear handwritten.

Potential areas for consideration and next steps

- The Legislative Council Procedure Office, together with the Department of Parliamentary Services (IT Services Branch), could investigate options for a technical solution that allows online forms to be lodged by members, published by the Clerk and made available in searchable format on the website. However, given the large number of PIMS and IT projects currently underway, this may not be a quick solution.
- An interim solution could be to make the pecuniary interests available in a more prominent position on the website, such as under the Members tab or in the mega menus.
- The Privileges Committee could examine the development of a system that allows for online lodgement and access to the Register, this may include looking into the following areas:
 - administrative and technological processes of other jurisdictions and potentially other websites that provide for the online completion of forms and access to the information gathered, including the NSW Electoral Commission.
 - the introduction and application of these practices to both Houses of NSW Parliament, and
 - any potential procedural outcomes requiring resolution by the House.

Appendix A: Screen shots of web pages from select jurisdictions in Australia

Federal Parliament:

House of Representatives:

HOME / SENATORS AND MEMBERS / MEMBERS / REGISTER OF MEMBERS' INTERESTS - 46TH PARLIAMENT

Register of Members' Interests - 46th Parliament

Members' registrable interests

Under the resolution of the House, within 28 days of making and subscribing an oath or affirmation as a Member, each Member is required to provide to the Registrar of Members' Interests a statement of the Member's registrable interests. The registrable interests of which the Member is aware of the Member's spouse and any children wholly or mainly dependent on the Member for support must also be included in the statement. The statement is to include:

- in the case of new Members, interests held at the date of the Member's election;
- in the case of re-elected Members of the immediately preceding Parliament, interests held at the date of dissolution of that Parliament; and
- changes in interests between these dates and the date of the statement.

The register of Members' interests is published below.

- Members, A - B
- Members, C - F
- Members, G - J
- Members, K - N
- Members, O - R
- Members, S - Z
- Former

Members, A - B

Last updated	Member name and electorate	
13 April 2021	Albanese, The Hon Anthony, Member for Grayndler, NSW	
31 July 2019	Alexander, Mr John, Member for Bannalong, NSW	
9 April 2021	Allen, Dr Katrina, Member for Higgins, VIC	

Senators

Members ▲

The Speaker

First Speeches

Photographs of Members

Who is a Member?

Register of Members' Interests - 46th Parliament

Register of Members' qualifications - 46th Parliament

Contacting Senators and Members

About the Register of Members' Interests

The purpose of the Register of Members' Interests is to place on the public record Members' interests which may conflict, or may be seen to conflict, with their public duty. Matters which Members are required to register are set out in a resolution of the House of Representatives.

- Resolutions of the House
- Explanatory notes
- 45th Parliament: Members'

The Senate:

HOME / PARLIAMENTARY BUSINESS / COMMITTEES / SENATE COMMITTEES / SENATE STANDING COMMITTEE OF SENATORS' INTERESTS / CURRENT REGISTER OF SENATORS' INTERESTS - 46TH PARLIAMENT

Current Register of Senators' Interests 46th Parliament

* This webpage is updated weekly

- Abetz, Senator the Hon Eric - Senator for Tasmania
Last updated 5 February 2021
- Antic, Senator Alex - Senator for South Australia
Last updated 12 January 2021
- Askew, Senator Wendy - Senator for Tasmania
Last updated 8 December 2020
- Ayres, Senator Tim - Senator for New South Wales
Last updated 19 March 2021

About this committee

The committee oversees and reports on the registration of senators' interests, undertaken in accordance with relevant resolutions of the Senate. Interests are principally disclosed by way of statements of interests, supplemented by forms disclosing alterations of interests from time to time.

- Committee Home Page
- Role of the committee
- Committee membership
- Previous Register of Senators' Interests 45th Parliament
- Previous Register of Senators' Interests 44th Parliament
- Establishment of the Register of Senators' Qualifications
- Register of Senators' Qualifications
- Establishment of Citizenship Register
- Citizenship Register 45th Parliament
- Tabled volumes of Register of Senators' Interests
- Reports

Legislative Assembly for the Australian Capital Territory:

Home > Members > Ethics and accountability

Ethics and accountability

Members

Find your members

Roles and responsibilities

Members of the Assembly

The Speaker and office holders

Ethics and accountability

Declarations of Members' Interests

The purpose of the Statement of Registrable Interests is to place on the public record Members' and Ministers' interests which may conflict, or may be seen to conflict, with their public duty.

Members and Ministers are to complete the [Declaration of Interest form \(Word, 47 KB\)](#) at the beginning of each Assembly and then a [Declaration Update form \(Word, 18 KB\)](#) notifying the Clerk of any alterations.

- [BARR, Andrew \(PDF 1.153 KB\)](#)
- [BERRY, Yvette \(PDF 767 KB\)](#)
- [BRADDOCK, Andrew \(PDF 285 KB\)](#)
- [BURCH, Joy \(PDF 587 KB\)](#)
- [CARL, Peter \(PDF 209 KB\)](#)
- [CASTLEY, Leanne \(PDF 3.937 KB\)](#)
- [CHEYNE, Tara \(PDF 207 KB\)](#)
- [CLAY, Jo \(PDF 1.897 KB\)](#)
- [DAVIDSON, Emma \(PDF 3.132 KB\)](#)
- [DAYS, Johnathan \(PDF 6.070 KB\)](#)

Legislative Assembly of the Queensland Parliament:

Home > Members > Current Members (including Ministers and shadow Ministers) > Register of Members' Interests

Members

Current Members (including Ministers and shadow Ministers)

Member List

Full Mailing Lists (4)

Register of Members' Interests

Member Speeches

Opposition Leader's Diary

Former Members

Members' and Former Members' Emblems

Register of Members' Interests

On Thursday 26 November 2009, the Legislative Assembly altered Standing Orders so as to direct the Registrar to publish on the internet the Register of Members' Interests.

Current Register of Members' Interests

Register of Members' Interests as at 23 April 2021

[Download Register \(PDF - 480 KB\)](#)

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Sitting Dates
(Recent and Known Future)

April 2021						
M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

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Parliament of Tasmania:

House of Assembly (Landing page)

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House of Assembly - Register of Members' Interests

The Parliamentary (Disclosure of Interests) Act (No. 22 of 1996) prescribes that a 'Register of Interests of Members of the House of Assembly' is maintained. The Register of Interests is comprised of the individual disclosures of pecuniary and other interests of each Member and their spouses and is made by way of the lodgement of an annual return. The Act further requires the publication of the Register of Interests.

A person who becomes a Member, other than a re-elected Member, must lodge a primary return with the Clerk within 3 months after the day on which the Member takes the oath of allegiance as required under an Act to be taken in relation to the office of Member. Thereafter, each Member must lodge an annual return on or before 1 October in any year unless the primary return date for the Member is after 30 April of that year.

The returns lodged by Members of the House of Assembly for each Financial Year are published hereunder.

- [2019 - 2020](#)
- [2018 - 2019](#)
- [2017 - 2018](#)

Legislative Council (Filtered by year)

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Legislative Council - Register of Members' Interests

Legislative Council Register of Members' Interests

49th Parliament: Members' Interests Statements 2019 - 2020

Last updated	Member name	Electorate
3 November 2020	Amelago, The Honourable Rosemary Lois	Launceston
3 November 2020	Dear, The Honourable Ivan Noel	Wilmersmere
3 November 2020	Farnell, The Honourable Craig Maxwell	Darwent
3 November 2020	Forrest, The Honourable Ruth Jane	Murchison
3 November 2020	Gaffney, The Honourable Michael Victor	Morsey
3 November 2020	Hiscott, The Honourable Leonie Anne	Montgomery
3 November 2020	Howlett, The Honourable Jane	Prosser
3 November 2020	Lowell, The Honourable Sarah Elizabeth	Rumney
3 November 2020	Palmer, The Honourable Joanne	Rosevears
3 November 2020	Rottnay, The Honourable Tonja Verena	McIntyre

Appendix 2 Members' Code of Conduct



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; as amended 22 March 2022, item 40, pp 3039-3045.

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 minor breach of this Code may be the subject of an investigation by the Independent Complaints Officer. A substantial breach of the Code may constitute corrupt conduct for the purposes of the Independent Commission Against Corruption Act 1988.

10. Treatment of staff and others

A Member must treat their staff and each other and all those working for Parliament in the course of their parliamentary duties and activities with dignity, courtesy and respect, and free from any behaviour that amounts to bullying, harassment or sexual harassment.

Commentary

Section 22(b) of the Anti-Discrimination Act 1977 makes it unlawful for a member to sexually harass a workplace participant or another member in the workplace, or for a workplace participant to sexually harass a member.

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

Appendix 3 Minutes

Minutes no. 36

Wednesday 12 October 2022

Privileges Committee

McKell Room at 1.30 pm

1. Members present

Mr Primrose (*Chair*)

Revd Mr Nile (*Deputy Chair*) (from 1.40 pm)

Mr Donnelly

Ms Faehrmann

Mr Fang

Mr Farlow

Mr Mallard (from 1.38 pm)

Mr Martin

In attendance: Steven Reynolds, Jenelle Moore.

2. Apologies

Nil.

3. Draft minutes

Resolved, on the motion of Mr Donnelly: That draft minutes no. 35 be confirmed.

4. Correspondence

The committee noted the following item of correspondence:

Sent

- 21 September 2022 – Letter from the Chair to the Chief Commissioner, Independent Commission Against Corruption, responding to his request for a meeting with the committee.

5. Members Code of Conduct

The Chair advised that under section 72C(5) of the *Independent Commission Against Corruption Act 1988*, the Privileges Committee is the committee designated to review the Members' Code of Conduct at least every four years. The last review having taken place in 2018, the Committee was due to conduct a review this year.

Resolved, on the motion of Revd Mr Nile:

- That the committee inquire into and report on 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.
- That the committee circulate the current Code of Conduct and the recommendations made by the ICAC in its report on the Investigation into the conduct of the local member for Drummoyne to all members and invite submissions.
- That the Parliamentary Ethics Advisor and the Clerk also be invited to make submissions.
- That submissions be due by Wednesday 2 November 2022.
- That the committee meet to consider a draft report on Monday 14 November 2022, to be tabled during the next sitting week.
- That the chair report the terms of reference to the House.

6. Other business

The Clerk noted other matters presently before the committee. Members agreed that those matters be finalised at the meeting scheduled for Monday 14 November 2022.

7. Adjournment

The committee adjourned at 1.52 pm, until Thursday 10 November at 1:30 pm..

Steven Reynolds
Committee Clerk

Draft Minutes no. 38

Monday 15 November 2022
Privileges Committee
Room 1136 at 10.30 am

1. Members present

Mr Primrose (*Chair*)
Revd Mr Nile (*Deputy Chair*)
Mr Barrett (substituting for Mr Fang) (*via Webex* from 11.00 am, in person from 11.29 am)
Ms Boyd (substituting for Ms Faehrmann)
Mr Donnelly
Mrs MacDonald *via Webex* (substituting for Mr Farlow)
Mr Mallard
Mr Martin.

In attendance: Steven Reynolds, Jenelle Moore, Taylah Cauchi.

2. Draft minutes

Resolved, on the motion of Mr Donnelly: That draft minutes nos 36 and 37 be confirmed.

3. Correspondence

Nil.

4. Circulation of Chair's draft reports

The committee noted that it had previously agreed via email that the Chair's draft reports relating to those inquiries listed for consideration at this meeting would be circulated less than 7 days prior to the report deliberative.

5. Annual report of the Parliamentary Ethics Adviser 2021-2022

The Chair welcomed Mr John Evans PSM, Parliamentary Ethics Adviser, to the meeting.

Mr Evans briefed the committee on his 2021-2022 annual report.

Mr Evans left the meeting at 10.48 am.

6. Protocol for an Independent Complaints Officer

The Clerk circulated a draft revised protocol containing minor changes recommended by the Parliamentary Ethics Adviser.

The Independent Complaints Officer briefed the committee on the revised proposed protocol, taking into account feedback received from the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics and the Parliamentary Ethics Adviser.

The committee deliberated.

Resolved, on the motion of Revd Mr Nile: That:

- (a) the committee clerk be authorised to meet with the clerk to the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics to resolve any differences in terms proposed by the two committees, and recirculate the final version,
- (b) the committee agree to the revised protocol, pending any minor alterations arising from the procedure proposed above, and
- (c) the Chair table the protocol in the House on the next sitting day.

7. **Members Code of Conduct**

The committee considered the Chair's draft report, previously circulated.

Resolved, on the motion of Mr Mallard: That:

- (a) draft report be the report of the committee and that the committee chair present the report to the House,
- (b) the correspondence relating to the inquiry be tabled in the House with the report,
- (c) the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling,
- (d) the committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee, and
- (e) following tabling of the report the chair write to the Chief Commissioner of the ICAC to indicate that Chapter three of the report represents the committee's response to the recommendations of the Commission's report into the Member for Drummoynes.

8. **Inquiry into execution of search warrants by the Australian Federal Police (No. 3)**

The committee considered the Chair's draft report, previously circulated.

Resolved, on the motion of Revd Mr Nile: That:

- (a) the draft report be the report of the committee and that the committee chair present the report to the House,
- (b) the submissions and correspondence relating to the inquiry be tabled in the House with the report,
- (c) the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling,
- (d) the committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee,
- (e) following tabling of the report the Chair write to the Chief Commissioner of the ICAC and the President to pursue the recommendations relating to a revised Memorandum of Understanding regarding execution of search warrants, and
- (f) following the tabling of the report the Chair write to the Commissioner of the Australian Federal Police to confirm the understanding that any future search warrants executed on NSW members or their staffers will follow the AFP's 2021 guideline, and
- (g) following the tabling of the report the Chair write to the Senate Committee on Privileges to forward a copy of the committee's report for consideration.

9. **Special report no. 14 of the Public Accountability Committee**

The committee considered the a discussion paper prepared by the Chair, previously circulated.

Resolved, on the motion of Ms Boyd: That the discussion paper be amended to note the chilling effect that disclosure of in camera evidence can have on the willingness of inquiry participants to give evidence to an inquiry and their safety in providing sensitive or incriminating evidence to a committee.

Resolved, on the motion of Mr Donnelly: That:

- (a) the Clerk of the Parliaments be invited to make a submission to the inquiry, and
- (b) following receipt of the submission from the Clerk of the Parliaments, the committee determine its views as to the questions raised in the discussion paper prior to deciding on further action or requesting the Chair to prepare a report.

10. Adjournment

The committee adjourned at 12.03 pm, *sine die*.

Steven Reynolds
Committee Clerk

