

PROTOCOLS FOR VISITS BY MEMBERS TO GOVERNMENT SCHOOLS

STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE

JUNE 2019

REPORT 12

THE COMMITTEE

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RESOLUTION OF APPOINTMENT

In 1995 the Legislative Assembly for the Australian Capital Territory ('the Assembly') amended Standing Order 16, which established the Standing Committee on Administration and Procedure ('the Committee').

Standing Order 16 authorises the Committee to inquire into and report on, among other things, the practices and procedure of the Assembly.

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RECOMMENDATIONS

RECOMMENDATION 1

- 3.11 The Committee recommends that the *Protocols for MLA/MP/Senator and other dignitary visits to Canberra Public Schools* be amended to bring it more into line with the Justice and Community Safety Directorate procedures for *Events, Arrangements and Engagement with Non-Government MLAs*. These protocols are to apply to all non-Executive Members.

RECOMMENDATION 2

- 3.16 The Committee recommends that ACT Government schools be free to invite any Member of the Legislative Assembly to public events held at that school.

1 BACKGROUND

1.1 At its meeting on 14 February 2019 the Assembly passed the following resolution:

“That this Assembly:

- (1) notes that:
 - (a) school visits by MLAs serve a valuable purpose in increasing an MLA’s knowledge of the ACT school system and developing an appreciation of the talent and enthusiasm of students and teachers in ACT schools;
 - (b) government schools are staffed by public servants, who are part of an apolitical public service that assists the Executive and serves the community on behalf of the Executive; and
 - (c) the Minister for Education has approved business hours visits to government schools for members of all political parties;
- (2) further notes that:
 - (a) the protocol for MLA/MP/Senator and other dignitary visits to Canberra public schools is available on the Education Directorate website; and
 - (b) the protocol does not apply to independent and Catholic schools who have their own processes for organising visits by interested parliamentarians; and
- (3) calls on the Standing Committee on Administration and Procedure to:
 - (a) examine whether the protocols in place around the permissions for MLAs to visit or attend school events constitute an impediment to the Members performing their function as MLAs and in complying with the Code of Conduct for all Members of the Legislative Assembly; and
 - (b) report back to the ACT Legislative Assembly on these protocols by the last sitting day in May 2019.”

1.2 When the Assembly met on 16 May 2019, it amended the reporting date for the inquiry to the last sitting day in June 2019 at the request of the Committee.

1.3 The Committee wrote to all Members of the Legislative Assembly generally and the Minister for Education and Early Childhood Development specifically on 19 February 2019, with follow up correspondence on 29 April 2019.

1.4 The Committee requested Members provide details of how often they had visited an ACT school since becoming a Member, and whether they had had any issues with the existing protocols for visiting ACT schools.

1.5 Additionally the Committee requested the Minister for Education and Early Childhood Development to provide:

- (a) details over the last 10 years of the number of MLAs that have been granted access to government schools; and
- (b) the number of times over this period that access has been refused.

2 SUMMARY OF SUBMISSIONS AND OTHER DOCUMENTATION

Submission No 1—Ms Bec Cody MLA

- 2.1 Ms Cody, in her submission, indicated that she had never been denied access. She encouraged the Committee to consider the impact visits by Members can have on the children and staff in terms of wellbeing, occupational health and safety and the potentially political nature of interactions.

Submission No 2—ACT Government (No. 1)

- 2.2 The Minister for Education and Early Childhood Development provided the Committee with a detailed summary of the current arrangements and highlighted the issues that government schools in the ACT experience that are unique to the ACT. The submission also provided background historical information from 2005.
- 2.3 In addition, the Government submission included copies of the *Protocols for MLA/MP/Senator and other dignitary visits to Canberra Public Schools* and the *Events, Arrangements and Engagement with Non-Government MLAs* for the Justice and Community Safety Directorate.
- 2.4 The Committee noted that the Justice and Community Safety Directorate procedures provided protocols for visits to ACT detention facilities, the Courts and the Alexander Maconochie Centre and that they appeared more straightforward, with the approval resting with the Director-General in consultation with the Minister's office.

Submission No 3—Ms Caroline Le Couteur MLA

- 2.5 Ms Le Couteur, in her submission, described the two visits she had made to ACT schools since October 2016. She indicated that in both instances, the process had been complicated and lengthy.
- 2.6 She had not attempted to initiate a school visit on her own.

Submission No 4—Ms Nicole Lawder MLA

- 2.7 In her submission Ms Lawder indicated that, based on the advice from colleagues that it was "pointless" to ask, she had not requested to visit an ACT Government school as she believed that the request was unlikely to be granted.
- 2.8 Despite that, she had attended events at schools arranged by other organisations and that she had visited private and independent schools many times.

Submission No 5—Mrs Elizabeth Kikkert MLA

- 2.9 Mrs Kikkert provided copies of two letters she had received from the Minister for Education and Early Childhood Development denying permission to visit Government schools in the electorate of Ginninderra. In this correspondence the Minister states:

As Education Minister I am responsible for the effective operation of ACT government schools. In my tenure as minister I have taken a clear stance on any activities that could compromise or be seen to compromise this objective, including activities that could risk undermining the non-sectarian nature of government education.

For this reason I consider it improper for Members of the Legislative Assembly to visit government schools for the purpose of general community or electorate education. I have applied this rule irrespective of political party.

- 2.10 In her submission Mrs Kikkert expressed the view that the policy of the Minister is an impediment to her ability to perform her duties as an MLA.
- 2.11 She also expressed the view that, given school Principals are responsible for the educational, organisational and fiscal running of schools, the restriction on managing invitations to local members indicates a lack of trust.

Submission No. 6—Ms Elizabeth Lee MLA

- 2.12 As Shadow Minister for Education, Ms Lee provided information that indicated that she had experienced significant delays on receiving responses to her requests for visits, often requiring follow up requests.
- 2.13 Ms Lee, through her submission, indicated her compliance with the many requirements of schools visits and her understanding that some visits might not be appropriate. She does, however, reject the suggestion of the Minister in the debate on the motion on 14 February 2019 that schools should be available for Members to wander through at their own convenience.
- 2.14 She indicated that she believed that the ability of Members to increase their knowledge of the government schools system would lead to a greater appreciation of the challenges and issues facing school communities.

Submission No. 7—Mr Mark Parton MLA

- 2.15 Mr Parton indicated that he had not formally requested access to any government schools, despite being of the view that such access would be helpful. He had been advised by colleagues and staff that access would not be given by the Minister and that there was no point.
- 2.16 He stated “the current rules regarding MLA’s engagement with public schools seem designed to shut down any engagement particularly with opposition Members.”

Submission No. 8—Mr James Milligan MLA

- 2.17 In his submission, Mr Milligan discussed the importance of staff, student and the broader school community having access to their elected representatives particularly in the area of civics education.
- 2.18 He expressed the view that the decision making relating to visits by MLAs to schools should be at the school level, trusting school principals to ensure the effective management of all visitors to schools, balancing conflicting pressures as best fits their particular school.

Submission No. 9—Ms Suzanne Orr MLA

- 2.19 Ms Orr advised the Committee, through her submission, that she had attended a number of formal school visits and numerous school fetes. She indicated that she had not experienced any difficulty in securing permission to visit schools and that the Minister's Office had, on two occasions, facilitated visits.
- 2.20 Ms Orr advised that she was satisfied with the protocols and that no changes were required.

Submission No 10—ACT Government (No. 2)

- 2.21 The Committee received a second submission from the ACT Government following a request from the Committee to provide details relating to access granted to ACT Government schools over the past 10 years and the number of times access was denied.
- 2.22 In its response the Government advised it was unable to provide the requested information and anecdotally advised that visits had been refused on very few occasions but did cite three specific instances.

Documents released under the Freedom of Information Act

- 2.23 The Committee was provided with copies of 24 documents that had been made available under a freedom of information request. Among the documentation is correspondence relating to the University of Canberra Lake Ginninderra College 2017 graduation; the Speaker's Civics and Citizenship Awards; Gold Creek School end of year Awards Ceremony 2018; amongst others.
- 2.24 The FOI documents provide an insight into the level of direction Minister Berry and the Education Directorate exercise in facilitating or denying access to ACT government schools by any MLA other than the Minister.

3 ISSUES

- 3.1 The Committee noted that of the 10 submissions to the inquiry there were differing views of how access to ACT Government schools by Members of the Assembly were operating.
- 3.2 In the Minister for Education and Early Childhood Development's view the Minister is the person who is ultimately responsible for the education portfolio and operations of all ACT public schools, and in her submission she indicates that she welcomes school visits as an appropriate part of student learning and increasing awareness of education in the Territory, whilst making sure that schools are not politicised. The Minister further pointed out that it is within the scope of the Minister's decision-making accountability and control to decide that permissions must be sought to visit school sites as places of employment and learning, and for the Minister to set protocols and standards for those visits, and each Minister for Education has exercised this authority in relation to school visit protocols.
- 3.3 After a request from the committee for additional information on the number of MLAs that have been granted access to ACT Government schools over the last 10 years and the number of times that access had been refused, the Minister responded that she was unable to provide that information as it was not collected centrally anywhere within the Education directorate. However, the Minister did indicate that during her tenure as Minister for Education a visit by an MLA to a government school had been refused on very few occasions, and she provided the committee with three examples of 3 MLAs being either refused or offered alternatives.
- 3.4 The two government MLAs that lodged submissions with the committee indicated that, in their view, their experience with school visits had been a universally positive one, never being denied access, and that they were comfortable with the protocols surrounding school visits.
- 3.5 The Greens MLA's submission indicated that she had visited two schools in her time as an MLA during this term. On the first occasion Ms Le Couteur, MLA indicated that the first visit took months to organise due to the approval process for the Minister and the Minister's office changing dates, and that the second visit (accompanying the then Minister Shane Rattenbury, MLA) took "a lot of organising with the Ministers office".
- 3.6 The five opposition MLAs who lodged submissions all outlined concerns with the way the access by MLAs to government schools operated. In summary those concerns were:
- Not once being invited to a government school; two newer MLAs being told by other longer serving MLAs that it was pointless (as an Opposition MLA) to ask to visit a school as access would not be given; and a view that it appeared that Labor and Greens MLAs visit schools regularly as well as federal government and opposition MPs regularly being seen visiting schools;
 - Finding it difficult to be an effective MLA when schools want to be visited by an MLA but find they are restricted in doing so;
 - Observing that handing out student awards at an Assembly, watching students participate in a sports carnival or touring classrooms on special occasions are not

political activities, and that as local representatives as MLAs, particularly opposition MLAs should be offered the same access as members of the government to ACT schools;

- The current rules regarding MLA engagement with public schools seem designed to shut down any engagement particularly with opposition MLAs;
- A request to visit 30 schools resulted in permission for 6 schools being visited in a calendar year, with the first visit being allowed three months after the initial request;
- Without an opportunity to talk to teachers at government schools MLAs find it difficult to be able to understand the culture, understand the strengths and the ins and outs of any particular school and show support to their local communities that they represent.

3.7 The committee's terms of reference for this inquiry ask the committee to examine whether the protocols in place around the permission for MLAs to visit or attend school events constitute an impediment to the members performing their function as MLAs.

3.8 The Committee notes that the protocols for visits to Justice and Community Safety (JACS) Directorate premises are different to those protocols for visits to Education facilities. The guidelines for visits to JACS premises are:

The Office of the Director-General will make a decision about whether to authorise a visit and any associated conditions. If approved, the Director-General will ensure the Minister's Office is kept informed about the visit.

3.9 In addition to any conditions imposed by the Director-General, visiting VIPs must adhere to the following:

1. no announcements or media conferences are to be made/held in or on JACS facilities
2. No JACS staff, assets, uniforms equipment, signage or other JACS identifies are allowed to be used in any visual representations that could be used to infer support;
3. Staff must not be asked to provide comment about issues related to political campaigning and
4. The visit must not affect the operations of the business area or in any way disrupt service delivery commitments for the community.

3.10 The Committee, noting the perceived difficulties with the current process as outlined in the submissions, is attracted to the simplicity and conciseness of these protocols, and that the delegation of responsibility may assist with requests being assessed more quickly. If they were used for Education facilities it would have the advantage of having consistent guidelines across more government facilities and would free up the Minister's office from a time consuming activity.

Recommendation 1

- 3.11 The Committee recommends that the *Protocols for MLA/MP/Senator and other dignitary visits to Canberra Public Schools* be amended to bring it more into line with the Justice and Community Safety Directorate procedures for *Events, Arrangements and Engagement with Non-Government MLAs*. These protocols are to apply to all non-Executive Members.
- 3.12 The Committee noted that the Assembly also asked the Committee to examine whether the protocols in place for permission for MLAs to visit or attend school events comply with the Code of Conduct for All Members of the Legislative Assembly.
- 3.13 This issue was addressed in only one of the submissions, and the Committee makes no recommendation in relation to this matter.
- 3.14 The Committee notes that schools regularly hold public events such as fetes, fund raisers, open days, graduations and sports days, among others
- 3.15 The Committee can see no reason why Members could not be invited to such public events and that invitations to those functions would not require ministerial approval.

Recommendation 2

- 3.16 The Committee recommends that ACT Government schools be free to invite any Member of the Legislative Assembly to public events held at that school.

Joy Burch MLA, Chair

6 June 2019

APPENDIX 1—SUBMISSIONS

- | | |
|---|---------------|
| 1. Ms Bec Cody MLA | undated |
| 2. Ms Yvette Berry MLA
Minister for Education and Early Childhood Development | 3 April 2019 |
| 3. Ms Caroline Le Couteur MLA | 29 April 2019 |
| 4. Ms Nicole Lawder MLA | 29 April 2019 |
| 5. Mrs Elizabeth Kikkert MLA | 3 May 2019 |
| 6. Ms Elizabeth Lee MLA | 6 May 2019 |
| 7. Mr Mark Parton MLA | 6 May 2019 |
| 8. Mr James Milligan MLA | 8 May 2019 |
| 9. Ms Suzanne Orr MLA | 13 May 2019 |
| 10. Ms Yvette Berry MLA
Minister for Education and Early Childhood Development | 28 May 2019 |
| 11. Freedom of Information documents | |

APPENDIX 2—EVENTS, ARRANGEMENTS AND ENGAGEMENTS WITH NON-GOVERNMENT MLAs—EXTRACT

6. CONSULTATION WITH PUBLIC SERVANTS BY OPPOSITION AND RECOGNISED PARTIES WITHIN THE LEGISLATIVE ASSEMBLY

The following protocol is being issued to protect employees and the Directorate from risks associated with:

- a visit to JACS premises by a non-government member, where visitors seek to make political announcements or promote programs related to JACS activities; and
- where the opposition or recognised parties consult with public servants.

For all requests to visit JACS facilities by Oppositions and Recognised Parties within the Legislative Assembly, the following procedures are to apply:

6.1 VISITS TO JACS PREMISES

- The business area receiving the request/contact to access a JACS site will notify the Office of the Director-General via JACSMedia@act.gov.au providing details of the visit, purpose etc.
- The Office of the Director-General will liaise with the relevant business unit and will request advice from the Ministerial Services Unit (MSU) and the relevant Minister's Office.
- The Office of the Director-General will make a decision about whether to authorise the visit and any associated conditions. If supported, the Office of the Director-General will ensure the relevant Minister's Office is kept informed about the visit.
- In addition to any conditions imposed by the Director-General, visiting VIP's must adhere to the following:
 - no announcements or media conferences are to be made/held in or on JACS facilities;
 - no JACS staff, assets, uniforms, equipment, signage or other JACS identifiers are allowed to be used in any visual representations that could be used to infer support;
 - staff must not be asked to provide comment about issues related to political campaigning; and
 - the visit must not affect the operations of the business area or in any way disrupt service delivery commitments for the community.

6.2 CONSULTATION WITH PUBLIC SERVANTS

It is accepted custom and practice that all Members of the Legislative Assembly, the Oppositions and/or their staff are to contact the appropriate Minister or Minister's office whenever seeking information on particular issues. Alternatively, a written request is made to the head of the agency concerned. Normally, an advisor from the Minister's office will attend the meeting with the public servants.

During caretaker the following additional practices apply:

- any consultation that non-Government members (being external to the ACT Government) wish to undertake with agency officials is to be initiated through the relevant Minister's office. The relevant Minister is to notify the Chief Minister of any request and whether it has been granted. Agency officials should not initiate any consultation.
- the subject matter of the discussions should generally be about machinery of government and administration. Agency officials may comment on the practicalities of implementing and administering the policies that have been proposed by the relevant member. Agency officials are not to discuss Government policies or offer opinions on matters of a party political nature.
- the detailed substance of the discussion is to be kept confidential between the agency officials and the member(s) with whom they meet. Ministers are, however, entitled to be informed that the discussions have taken place and to seek assurances that the discussions were kept within the agreed purposes.